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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

Kristi F. Curtis, Circuit Court Judge

Case No. 2022-000703

Progressive Northern Insurance Company, ... Respondent,

v.

Gloria Oliver, Richard Prothro, and Sharon Prothro, Defendants,
Of Whom Gloria Oliver is the Appellant.

**RECORD ON APPEAL
VOLUME 2**

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- 1 Q. How about Bernadine Moore?
- 2 A. She don't work.
- 3 Q. Okay. How about Geraldine Shakur?
- 4 A. She works at Tuomey Hospital.
- 5 Q. Okay. And I will kind of cut to the chase on that.
- 6 What I'm trying to figure out is who your kin is in
- 7 Sumter County; okay. And so, what I'll -- what I will
- 8 just ask you is, can you -- can you give me the last
- 9 names of anybody in Sumter County that you feel like
- 10 is your kin or that you are related to by blood or
- 11 marriage? You have already told me Day, Dicks, Moore,
- 12 Prothro, Shakur; any other names of people that you
- 13 consider to be your kin, last names?
- 14 A. My sister-in-law.
- 15 Q. Okay. What was her last name?
- 16 A. Patricia Williams.
- 17 Q. Williams. Okay. Any other last names?
- 18 A. Her husband, James Williams.
- 19 Q. Okay.
- 20 A. My sister-in-law, Harriet Moore. Geraldine's husband,
- 21 Abdul Shakur.
- 22 Q. Okay. They are all in Sumter?
- 23 A. Yes.
- 24 Q. Okay. Anybody else?
- 25 A. Oh. Roger's wife, Shirley.

1 Q. Okay. What was her maiden name?

2 A. Prothro.

3 Q. What was her name before she was a Prothro; do you
4 know?

5 A. I -- I don't remember.

6 Q. All right. Is there any other last names, people that
7 you consider to be like aunts, uncles, cousins,
8 nieces, nephews, any other last names that we haven't
9 covered? I'm just trying to figure out which families
10 you are related to.

11 A. Let's see. Cousar.

12 Q. Cousar. Okay.

13 A. Ruby Cousar.

14 Q. C-O-U -- C-O-U-S-A-R?

15 A. Right. Grandale Titus.

16 Q. Titus?

17 A. Yes. Robert Titus.

18 Q. Okay.

19 A. Martin Titus.

20 Q. Any other kin you can think of?

21 A. That's about all I can think of right now.

22 Q. All right. And your wife, again, she is sitting
23 here. Maybe she can -- maybe she can pick up the
24 pieces if we are missing any; okay?

25 A. Right.

1 Q. In a few minutes. If you would, Mr. Prothro, I am
2 going to ask you to give me -- give me your Social
3 Security Number.

4 A. Okay.

5 Q. I want to go to go off the record to do that; okay?

6 A. Okay.

7 MR. McELVEEN: Off the record.

8 (OFF THE RECORD)

9 MR. McELVEEN: We can go back on the
10 record.

11 EXAMINATION BY MR. McELVEEN CONTINUED:

12 Q. Mr. Prothro, do you have a Driver's License?

13 A. No.

14 Q. Okay. When is the last time you had a Driver's
15 License?

16 A. Ten years ago.

17 Q. Ten years ago?

18 A. Yes.

19 Q. Okay. So, you have not had a Driver's License since
20 roughly 2009?

21 A. Yes.

22 Q. Okay. And is there a reason why you don't currently
23 have a Driver's License?

24 A. It got suspended.

25 Q. And it got suspended some time around 2009?

1 A. Yes.

2 Q. Or ten years ago. I'm not going to hold you to the
3 exact date. Why did your License get suspended?

4 A. DUI.

5 Q. Okay. You had a DUI conviction some time around ten
6 years ago?

7 A. Yes.

8 Q. Okay. And have you had more than one DUI or just one?

9 A. Two.

10 Q. Two DUI's. Approximately what years were those?

11 A. The other one was before that one was about twelve
12 (12) years before that one.

13 Q. Twelve (12) years?

14 A. Yes.

15 Q. But you think that you -- your testimony is that the
16 last DUI you received is -- was about ten years ago?

17 A. Yes.

18 Q. That is why you are suspended today?

19 A. Yes.

20 Q. Okay. But you -- your suspension should have been up
21 by -- the DUI should have been up before now; right?

22 A. Yes, but I never went back and get -- get a License.

23 Q. You never went back and got it?

24 A. No.

25 Q. Is there any reason why -- is there any reason why?

- 1 A. Couldn't afford to pay the money.
- 2 Q. Okay. Since -- since your License got suspended you
- 3 said ten years ago, have you driven since then?
- 4 A. Yes.
- 5 Q. Okay. How many times have you driven since then?
- 6 A. Not much.
- 7 Q. Not much?
- 8 A. No.
- 9 Q. Can you -- how many times is not much?
- 10 A. Every now and then.
- 11 Q. Every now and then?
- 12 A. Yeah.
- 13 Q. So, in Two Thousand and -- since 2010, that is nine
- 14 years ago; right?
- 15 A. Right.
- 16 Q. How many times do you think you have driven in the
- 17 last nine years?
- 18 A. Maybe twice a month.
- 19 Q. Twice a month?
- 20 A. Yeah.
- 21 Q. Since 2009?
- 22 A. Yeah.
- 23 Q. How many times have you been stopped by law
- 24 enforcement driving since 2010? Since 2010.
- 25 A. Twice.

- 1 Q. Two times?
- 2 A. Yes.
- 3 Q. And did you get ---
- 4 A. One time. One time.
- 5 Q. Okay. One time?
- 6 A. Yes.
- 7 Q. You mean ---
- 8 A. Until the wreck.
- 9 Q. Okay.
- 10 A. And I didn't get stopped then.
- 11 Q. Okay. So -- so, law enforcement stopped you one time
- 12 prior to the wreck that we are talking about today?
- 13 A. Right.
- 14 Q. Okay. And do you remember what that was for or what
- 15 happened?
- 16 A. He said I didn't give a signal when I turned.
- 17 Q. Okay. Did you get any -- did you get any charges from
- 18 that?
- 19 A. Driving Under Suspension.
- 20 Q. Okay. And let me ask -- let me ask you this. You --
- 21 you testified a second ago that you had one DUI about
- 22 ten years ago and another one about twelve (12) years
- 23 ago?
- 24 A. Yes.
- 25 Q. That is from today's date?

1 A. Yes.

2 Q. Okay. Did you ever have any suspensions prior to
3 that? Did you have any -- have any suspensions before
4 that first DUI?

5 A. No.

6 Q. You never had a suspension back in 2001?

7 A. Maybe I did. I can't recall.

8 Q. Okay. But your -- your testimony today is that you
9 have had two Driving Under the Influence convictions?

10 A. Yes.

11 Q. Okay. How far did you go in school, Mr. Prothro?

12 A. I graduated.

13 Q. You graduated from high school?

14 A. Yes.

15 Q. What high school did you graduate from?

16 A. Mayewood High.

17 Q. What year was that?

18 A. 1973.

19 Q. Did you go to Mayewood all four years of high school?

20 A. No. I went to Eastern High in ninth grade and the
21 rest to Mayewood.

22 Q. Okay. Where did you go to middle school?

23 A. Mayesville.

24 Q. Mayesville?

25 A. Institute. That was from first through eighth grade.

1 Q. Got you. All right. Did you go -- have you had any
2 sort of -- any further education since you graduated
3 from high school?

4 A. No.

5 Q. You didn't go back for any college or certifications?

6 A. No.

7 Q. Nothing like that?

8 A. No.

9 Q. Okay. Have you -- have you been working since you
10 graduated from high school?

11 A. Beg your pardon?

12 Q. Have you been working since you graduated from high
13 school?

14 A. Yes.

15 Q. Tell me where all you have worked. Start with your
16 first job after high school; what did you do?

17 A. I worked for Georgia Pacific.

18 Q. How long did you work there for?

19 A. Three months.

20 Q. Okay. And why did you end up leaving that job?

21 A. More -- a better paying job.

22 Q. A better paying job?

23 A. Yes.

24 Q. Where did you go to after that?

25 A. FCX.

- 1 Q. S?
- 2 A. FCX.
- 3 Q. FCX. What is that?
- 4 A. That's down on Liberty Street down there across from
- 5 Santee Print; it used to be a feed place and ---
- 6 Q. That's where -- that's where you went after you left
- 7 Georgia Pacific?
- 8 A. Yeah.
- 9 Q. How long did you work there for?
- 10 A. Let's see. It was '73 to 1975.
- 11 Q. Okay. Why did you end up leaving that job?
- 12 A. Went in the Marine Corps.
- 13 Q. You were in the Marine Corps?
- 14 A. Yes.
- 15 Q. Around 1975?
- 16 A. March of '75.
- 17 Q. All right. How long were you in the Marines for?
- 18 A. Eighty-eight (88) days.
- 19 Q. Eighty-eight (88) days?
- 20 A. Yes.
- 21 Q. What -- why did you end up leaving the Marine Corps?
- 22 A. Couldn't adjust to military life.
- 23 Q. Okay. Did you get some sort of discharge; what kind
- 24 of discharge did you get?
- 25 A. Honorable.

1 Q. Honorable discharge?

2 A. Yes.

3 Q. Okay. But no injury or anything like that?

4 A. No.

5 Q. Okay. Did you ever get sent anywhere, like, deployed
6 or basic training -- for basic or anything like that?

7 A. Beg your pardon?

8 Q. Did you ever get sent for, like, basic training or any
9 deployments or anything like that?

10 A. No.

11 Q. You did not?

12 A. You said did I get ---

13 Q. Well, I will ask you, did you ever get deployed
14 anywhere?

15 A. No.

16 Q. Did you ever -- did you -- did you get through basic
17 training?

18 A. I went -- not all the way through. I got out of basic
19 training.

20 Q. Where did you go to Camp LeJeune or somewhere? Where
21 did you go for basic?

22 A. Parris Island.

23 Q. Parris Island. I meant Parris Island. Sorry. Okay.
24 So, you got out after eighty-eight (88) days. What
25 did you do after that?

- 1 A. Came home and worked at Santee Print.
- 2 Q. Santee Print?
- 3 A. Yes.
- 4 Q. How long were you there for?
- 5 A. About three years, I guess.
- 6 Q. Three years?
- 7 A. Yes.
- 8 Q. Why did you leave Santee Print?
- 9 A. Let's see. First job. I just quit.
- 10 Q. Okay. Did you go work somewhere after that?
- 11 A. Boozer and Wharton Construction Company.
- 12 Q. All right. How long were you there for?
- 13 A. For about two years and a half.
- 14 Q. Same question on that. Why did you end up leaving
- 15 that job?
- 16 A. Quit.
- 17 Q. You quit that one, too?
- 18 A. Uh-huh (affirmative response).
- 19 Q. All right. Was there a reason why?
- 20 A. No.
- 21 Q. All right. What did you do after that?
- 22 A. I think I got the job back -- I worked at Santee
- 23 twice. I think I went back to Santee Print again.
- 24 Q. Okay. How long did you stay that second time around?
- 25 A. Probably about two years.

- 1 Q. Two years. Why did you leave that time?
- 2 A. They fired me.
- 3 Q. What was that for?
- 4 A. Not coming to work.
- 5 Q. Okay. Do you remember about what time -- when that
- 6 was, what year that would have been?
- 7 A. That was in -- some time in the '80's.
- 8 Q. Okay. What did you do after -- what did you do after
- 9 that job?
- 10 A. Let's see. I drove a cement mixer for Sumter
- 11 Concrete.
- 12 Q. All right. How long did you do that for?
- 13 A. Not quite a year.
- 14 Q. All right. And why did you leave that job?
- 15 A. Got laid off.
- 16 Q. Okay. Did you go somewhere -- did you work somewhere
- 17 else after that?
- 18 A. Florence Concrete.
- 19 Q. Florence Concrete, here or in Florence?
- 20 A. In Sumter.
- 21 Q. In Sumter. When did you start doing that; when did
- 22 you start working at Florence Concrete?
- 23 A. Latter part of '89.
- 24 Q. '89. They were in Sumter back then, too?
- 25 A. It was Sumter Express Concrete then.

1 Q. Okay. How long -- how long did you work for Florence
2 Concrete back -- back then?

3 A. Probably about a year and a half.

4 Q. All right. Why did you leave Florence -- why did you
5 leave Florence Concrete?

6 A. Just quit.

7 Q. Okay. Where did you work after that?

8 A. I worked for my brother doing concrete work. James
9 Prothro.

10 Q. Okay.

11 A. But he don't live in Sumter.

12 Q. All right.

13 A. He had his own concrete business, and I worked for
14 him.

15 Q. What -- how long did you work there for?

16 A. Probably ten years.

17 Q. Okay. Ten years?

18 A. Yes.

19 Q. Anywhere else you have worked that we haven't talked
20 about yet?

21 A. That's about it.

22 Q. Are you working now?

23 A. No.

24 Q. Okay. When is the last time you had a job or you
25 worked?

- 1 A. When I worked for my brother.
- 2 Q. You worked for your brother?
- 3 A. That's -- that's the last when I worked.
- 4 Q. That's the concrete ---
- 5 A. Yeah.
- 6 Q. -- that's the concrete business that you worked for
- 7 that you said ten years?
- 8 A. Yes.
- 9 Q. All right. Can you remember about when -- when is the
- 10 last time you worked for your brother; how long ago
- 11 has that been?
- 12 A. Oh, about twenty-five (25) years ago.
- 13 Q. So -- so, you have not worked in about twenty-five
- 14 (25) years?
- 15 A. I been doing little yard work and stuff like that ---
- 16 Q. Okay.
- 17 A. -- since then.
- 18 Q. Are you disabled or anything like that?
- 19 A. Now I am, yes.
- 20 Q. You do receive Disability?
- 21 A. Yes.
- 22 Q. When did you start receiving Disability?
- 23 A. About seven years ago.
- 24 Q. Okay. And what's -- what is that for; how did you end
- 25 up receiving Disability?

1 A. I was -- my body was messed up; they sent me to a
2 Disability doctor, and he said I done messed up the
3 tissues in my body and stuff.

4 Q. Okay. How did you do that?

5 A. It just happened. I mean, ---

6 Q. All right. Going through your work history that you
7 just shared with me, I think the only time you told me
8 you were actually fired from a job was from Santee
9 Print?

10 A. Yes.

11 Q. Okay. Have you ever been fired or terminated from any
12 other job besides the one you mentioned to me?

13 A. Boozer, Wharton and Zeigler.

14 Q. Okay. What -- what did that involve?

15 A. Not coming to work.

16 Q. Okay. Any other job that you got fired from?

17 A. Those are the only two.

18 Q. Just those two. Okay. And I ask everybody this
19 question. I'm probably going to ask -- ask your wife
20 the same questions in a few minutes. Please don't get
21 offended by them. I ask everybody these questions.
22 The first question I have is, have you ever been
23 convicted of a crime? And what I mean by convicted
24 is, has a judge or a jury ever found you guilty of a
25 crime anywhere or have you ever pled guilty to a

1 crime?

2 A. No.

3 Q. No?

4 A. No.

5 Q. Okay. So, you have no criminal record?

6 A. Never been before a judge and jury.

7 Q. Okay. Well, have you ever been convicted of a crime?

8 A. Simple stuff.

9 Q. Okay. Like -- the question is, have you ever been
10 convicted of a crime; so, whether it's simple or
11 complicated, I just need you to answer the question,
12 have you ever been convicted of a crime?

13 A. Yes.

14 Q. Okay. What?

15 A. DUI.

16 Q. Okay. You mention -- you did mention that earlier.
17 You say you had two DUIs?

18 A. Yes.

19 Q. Okay. Anything else?

20 A. Disorderly conduct.

21 Q. That's it?

22 A. Fighting.

23 Q. Fighting?

24 A. Yes.

25 Q. Okay. Any -- anything else?

1 A. No.

2 Q. Okay. So, your testimony is that any -- any criminal
3 record that you would have would just have two DUIs on
4 it, a disorderly conduct charge and a charge that is
5 related to fighting?

6 A. Yes.

7 Q. Okay. In your life, and besides the ones that you
8 just mentioned to me, have you ever been arrested for
9 anything else that maybe you weren't convicted for?

10 A. No.

11 Q. Okay. And let's -- let's talk about your driving
12 record for a second. If I look at -- if I look at
13 your driving record over the last ten years, I know
14 you said you have been suspended for about the last
15 ten years. Am I going to see any sort of driving
16 related offenses on your ten year driving record?

17 A. No.

18 Q. Okay. So, no -- no traffic citations over the last
19 ten years?

20 A. No.

21 Q. Okay. And were you -- just to kind of get a point of
22 reference, were -- you mentioned your military service
23 when you were in the Marine Corps?

24 A. Yes.

25 Q. Were you married then?

1 A. No.

2 Q. Okay. You have been married one time or more than

3 once?

4 A. Twice.

5 Q. Twice. Who was your first wife?

6 A. Betty Lesane.

7 Q. Okay. When were -- when were you all married?

8 A. At the courthouse.

9 Q. Okay. When, like what -- what period of time; what

10 years were you married from?

11 A. 1977.

12 Q. That is when you were married?

13 A. Yes.

14 Q. Okay. And were you divorced or did something else

15 happen?

16 A. We got divorced.

17 Q. You got divorced. When -- when was that?

18 A. We just got divorced about twelve (12) years ago.

19 Q. Twelve (12) years ago?

20 A. Yeah.

21 Q. Going back to your military stint that you had in the

22 Marines, you said you received an Honorable discharge?

23 A. Yes.

24 Q. But you said the military life just didn't suit

25 you?

1 A. No.

2 Q. Why did they let you go? They don't usually let
3 folks go after ninety days in.

4 A. The reason they let me go, they said I couldn't adjust
5 to military life.

6 Q. Okay. Was it medical problems you were having or ---

7 A. No.

8 Q. Okay.

9 A. I didn't like it.

10 Q. I got you. All right. And, Mr. Prothro, do you and
11 your wife attend a church regularly in Sumter County?

12 A. No.

13 Q. You don't. Have you -- have you ever had a church in
14 Sumter County that you attended regularly?

15 A. Years ago.

16 Q. What church was that?

17 A. Household of Faith.

18 Q. All right. Are you a member of any kind of service
19 organizations, clubs, civic groups?

20 A. No.

21 Q. Fraternity, Mason group, anything like that?

22 A. No.

23 Q. Okay. All right. And I notice today you are not
24 wearing glasses. Do you typically wear eyeglasses?

25 A. No.

1 Q. How -- how is your vision?

2 A. Good.

3 Q. No problems with your vision?

4 A. No.

5 Q. Okay. And prior to -- prior to -- prior to the
6 collision that we are here for today that happened on
7 July 24th, 2016, had you ever been in any wrecks, car
8 wrecks prior to that, before that?

9 A. Yes.

10 Q. Okay. And tell me -- about how many wrecks do you
11 think you have been in prior to that?

12 A. Three.

13 Q. Three. And were you driving in any of those wrecks?

14 A. Two.

15 Q. Two of them. When did those happen?

16 A. The first one I was in I wasn't driving; that was
17 1976.

18 Q. Yes, sir.

19 A. But I was told that we was coming from Mayesville to
20 Sumter.

21 Q. Okay.

22 A. And a tractor and trailer ran into the car I was in.

23 Q. Yes, sir.

24 A. And said -- it was four of us in the car and I was
25 sitting behind the driver and it hit where I was

1 sitting at, and the fellow said he thought the car was
2 going to blow up; so, he dragged me out. I had my
3 neck cracked and my head bust open. They had to take
4 a bone from my hip and replace the bone in my neck.
5 And I stayed over in Richland Memorial for a few
6 months. After that, one Sunday, I was taking my
7 girlfriend to church on South Harvin and Fulton and
8 was at the light and the light was messed up, ---

9 Q. Yes, sir.

10 A. -- and the people said the light was guiding people
11 into each other and when I came through, me and the
12 other car came together.

13 Q. When was that one?

14 A. About -- about 1990.

15 Q. Did you have a valid Driver's License when that wreck
16 happened?

17 A. Yes.

18 Q. You did.

19 A. Uh-huh (affirmative response).

20 Q. All right. And you mentioned one other one that you
21 mentioned before this one?

22 A. Yes.

23 Q. When was that one?

24 A. Right there where the Coca-Cola plant at, ---

25 Q. Yes, sir.

1 A. -- I was coming around that curve, and a car pulled
2 in, cut in front of me and hit it in the side.

3 Q. Okay. And when was that?

4 A. That was -- that was in the late '70's.

5 Q. Late '70's?

6 A. Yes.

7 Q. So, this wreck that happened in 2016 would have been
8 the first automobile collision that you were involved
9 in in -- since the late '70's?

10 A. '76. '70. That one over there was later than the
11 '70's on Harvin.

12 Q. When was that one?

13 A. Where we -- where the light was guiding us into each
14 other?

15 Q. Yes, sir.

16 A. I think that was about 1990.

17 Q. Okay. You said that. So, you did say that. I
18 apologize. So, a better question would have been, had
19 you -- prior to the wreck that we are here for today
20 on July 24th, 2016, the last time you had been in a
21 motor vehicle wreck would have been 1990 at some point
22 in time?

23 A. Yes.

24 Q. Okay. Been in any wrecks since -- since this one that
25 happened in 2016?

1 A. No.

2 Q. Okay. So, your entire life you have been in four

3 wrecks?

4 A. Yes.

5 Q. No more, no less?

6 A. No -- no more, no less.

7 Q. Okay. Have you ever had to file a claim against

8 someone for injuries you received in a wreck?

9 A. I didn't file no claim in '76. We just settled.

10 Q. Settled who?

11 A. The insurance company.

12 Q. Okay.

13 A. And when I had that one over there, they -- they told

14 me that they was going to see that they get me

15 straightened out, but they never did.

16 Q. Okay. Have you had -- have you had to have a lawyer

17 before for a wreck that happened?

18 A. No.

19 Q. You never have had one?

20 A. No.

21 Q. Okay. This is the first time you had to have a

22 lawyer?

23 A. Yes.

24 Q. Okay. And you never had -- have you ever had a wreck

25 while your License was suspended?

1 A. No.

2 Q. Okay. And let's talk about -- first of all, let's
3 talk about what happened on the day of this wreck,
4 July 24th, 2016. Whose vehicle were you driving that
5 day?

6 A. My wife's.

7 Q. Okay. And her name is Sharon Prothro?

8 A. Right.

9 Q. Okay. And what kind of vehicle was it?

10 A. 19 -- I forgot the year -- Contour, Ford Contour.

11 Q. And whose vehicle was that?

12 A. Sharon's.

13 Q. Okay. And I ask this question also. As of July 24th,
14 2016, were you suffering from any major medical
15 conditions?

16 A. No.

17 Q. You told me -- you told me you take medication for
18 gout earlier?

19 A. Right.

20 Q. That day, were you taking any sort of medications or
21 anything like that?

22 A. No.

23 Q. Okay. So, you were in pretty good physical health?

24 A. Yes.

25 Q. Okay. Back at that time, July 24th, 2016, were you

1 treating with a psychiatrist or ---

2 A. No.

3 Q. Were you treating for any kind of mental health
4 conditions?

5 A. No.

6 Q. Nothing like that?

7 A. No.

8 Q. Okay. On July 24th, 2016, were you driving that Ford
9 Contour?

10 A. Yes.

11 Q. Okay. When is the last time prior -- when is the last
12 time you had driven that vehicle before July 24th,
13 2016?

14 A. I think about two weeks before then.

15 Q. Two weeks before then?

16 A. Yes.

17 Q. Okay. How about before that?

18 A. Maybe a week before.

19 Q. A week before that?

20 A. Yes.

21 Q. Okay. And you mentioned -- you mentioned your current
22 address that you have been living in since May of this
23 year; is that right?

24 A. Yes.

25 Q. I didn't ask you this earlier. Where were you living

1 prior to moving into the apartment in May?

2 A. 111 Crescent Avenue.

3 Q. Okay. Is that the same address that you had when this
4 collision happened on July 24th, 2016?

5 A. Yes.

6 Q. How long were you living there for?

7 A. Twelve (12) years.

8 Q. Twelve (12) years?

9 A. Yes.

10 Q. Who all lived there?

11 A. Just me and Sharon.

12 Q. Just you and your wife?

13 A. Yes.

14 Q. Okay. And does your wife, does she have a job right
15 now; does she work?

16 A. No.

17 Q. Okay. And where -- did she used to work?

18 A. Yes.

19 Q. Where did she work?

20 A. Cooper Tools.

21 Q. Cooper Tools?

22 A. Yes.

23 Q. That is the last job she had?

24 A. She worked for the Sportsman.

25 Q. Up on 15?

1 A. Yes.

2 Q. Okay. When's -- when is the last time she -- that she
3 worked; do you recall?

4 A. No.

5 Q. Was she working when this -- when this wreck happened?

6 A. No.

7 Q. She didn't have a job then?

8 A. No.

9 Q. All right. And you all -- the house you lived in on
10 Crescent Avenue, can you describe that house for me?
11 Like how -- how big was it, how many bedrooms did it
12 have; can you describe the house for me?

13 A. It's a duplex.

14 Q. Yes, sir.

15 A. We lived in one side and another family lived in the
16 other side. We had two bedrooms.

17 Q. I got you. Did it have an upstairs and a downstairs?

18 A. No.

19 Q. Just -- just one floor?

20 A. Right.

21 Q. All right. Who was the other family that lived next
22 to you?

23 A. Smalls.

24 Q. Smalls?

25 A. Yes.

- 1 Q. Which -- which Smalls? Do you remember their first
2 names?
- 3 A. Ms. Marie Smalls.
- 4 Q. Marie Smalls?
- 5 A. Yes.
- 6 Q. Was she -- was she your neighbor back in 2016?
- 7 A. Yes.
- 8 Q. Around the time this happened?
- 9 A. Yes.
- 10 Q. Okay. And in your household there at 111 Crescent
11 Avenue, how many vehicles were there?
- 12 A. One.
- 13 Q. Okay. That -- and that is the same Ford Contour you
14 mentioned earlier?
- 15 A. Yes.
- 16 Q. Okay. And how -- how long had you just had one
17 vehicle in the household?
- 18 A. That's all we ever had.
- 19 Q. That is all you ever had?
- 20 A. Yes.
- 21 Q. So, since you have been married to Ms. Prothro, you
22 have just had one vehicle in the household?
- 23 A. Right.
- 24 Q. Who owned that vehicle?
- 25 A. Sharon.

1 Q. Did you have permission to drive the vehicle?

2 A. What?

3 Q. Did you have permission to drive the vehicle?

4 A. No.

5 Q. You did not?

6 A. No.

7 Q. Okay. But you were driving it -- you were driving it
8 on July 24th, 2016?

9 A. Yes.

10 Q. You had permission to drive it that day?

11 A. No.

12 Q. All right. You mentioned you had driven it two weeks
13 -- two weeks prior to that. Did you have permission
14 to drive the vehicle that day?

15 A. No.

16 Q. You mentioned you had it a week prior to that. Did
17 you have permission to drive the vehicle that day?

18 A. No.

19 Q. Okay. So, how -- how did you end up driving the
20 vehicle?

21 A. Just get the key and go.

22 Q. You just got the key and go. Where was the vehicle --
23 where was the key kept?

24 A. On the dresser or somewhere in the house.

25 Q. Who -- whose dresser?

1 A. Our dresser. Our dresser.

2 Q. Okay. So, on July 24th, 2016, did you get the key off
3 the dresser that day?

4 A. Yes.

5 Q. Was that dresser in the bedroom -- you and Ms.
6 Prothro's bedroom?

7 A. Yes.

8 Q. Okay. And the two weeks prior to that, you said you
9 drove the vehicle that day. Where did you get the key
10 from that day?

11 A. Probably the same place.

12 Q. Okay. Let's go back to the week before that. You
13 talked about ---

14 A. Same place.

15 Q. The same place. All right. Was -- is that where the
16 key always was?

17 A. Just about -- most the time.

18 Q. Was there any other -- was there any other key in the
19 household that went to that Ford Contour?

20 A. No.

21 Q. Okay. That's a -- that is the only car you had in the
22 household?

23 A. Right.

24 Q. Okay. Where was -- where was Ms. Sharon Prothro when
25 you left the house on July 24th, 2016?

1 A. There, asking me not to go.

2 Q. There, asking you not to go?

3 A. Yes.

4 Q. But you did anyway?

5 A. Yes.

6 Q. Okay. Where was she two weeks earlier prior to that
7 when you took the car?

8 A. I can't recall. Maybe -- she might have been next
9 door.

10 Q. Might have been next door?

11 A. Yes.

12 Q. But you can't recall?

13 A. No.

14 Q. All right. How about prior to that?

15 A. I can't recall.

16 Q. Okay. So, tell me about -- tell me about when you got
17 up on July 24th, 2016. What time did you wake up that
18 morning?

19 A. Probably about 6:30 that morning.

20 Q. 6:30 that morning?

21 A. Yes.

22 Q. Okay. And what did you do when you got up that
23 morning?

24 A. Walked around in the yard for a while.

25 Q. Walked around in the yard for a while?

- 1 A. Yes.
- 2 Q. Doing what?
- 3 A. Went in the house and got the key.
- 4 Q. Okay. But you said you were walking around in the
- 5 yard for a while first you said; right?
- 6 A. Right.
- 7 Q. What were you doing walking in the yard?
- 8 A. I was kind of angry.
- 9 Q. What were you angry about?
- 10 A. We had an argument.
- 11 Q. Who had an argument?
- 12 A. Me and my wife.
- 13 Q. First thing that morning?
- 14 A. Overnight.
- 15 Q. Overnight?
- 16 A. I still was mad the next morning.
- 17 Q. I understand. What was the argument about?
- 18 A. I can't remember what it was about.
- 19 Q. It was a bad argument?
- 20 A. Not too bad.
- 21 Q. It was an overnight argument?
- 22 A. Well, no, not overnight.
- 23 Q. Okay. But you can't remember what it was about? As
- 24 we sit here right now, you can't remember what the
- 25 argument was about?

1 A. No.

2 Q. Okay. But you know you were in an argument?

3 A. Yes.

4 Q. All right. And so, you walked around the yard, and
5 then -- then what did you do?

6 A. Went in the house and -- and grabbed up the keys.

7 Q. Okay. From the same dresser you mentioned earlier?

8 A. Yes.

9 Q. Okay. Did your wife know that you -- you were leaving
10 the house in her vehicle?

11 A. She knew, but she was trying to get me not to go with
12 it.

13 Q. Okay. How did she -- how did she try to get you not
14 to go with it?

15 A. She asked me come back, don't take the car.

16 Q. Okay. Did she tell you why you shouldn't take the
17 car?

18 A. No, she was just telling me, "Don't go, don't take the
19 car."

20 Q. Okay. And, you know, you testified earlier when I
21 asked you, I think you said that, since your License
22 has been suspended, you drove roughly two times a
23 month. Do you remember saying that?

24 A. Yes.

25 Q. On every one of those occasions, did your wife try to

1 stop you from driving the vehicle?

2 A. Not all the time.

3 Q. Okay. How many -- how many times did she -- did she
4 tell -- did she try not -- did she not try to stop you
5 from driving the vehicle?

6 A. Most of the time, she did try to stop me.

7 Q. She didn't try to stop you?

8 A. Most the time she did try to stop me.

9 Q. She did?

10 A. Yes.

11 Q. Did she ever put the keys somewhere else or anything
12 like that?

13 A. No.

14 Q. Did she ever hide the keys from you?

15 A. No.

16 Q. Okay. Did -- did your wife know that you had
17 suspended Driver's License?

18 A. Yes.

19 Q. You think she knew that for the entire time it was
20 suspended?

21 A. Yes.

22 Q. Have you ever had a valid Driver's License since you
23 and Ms. Sharon Prothro have been married?

24 A. Yes.

25 Q. You have?

1 A. Yes.

2 Q. How long a period of time did you have a valid
3 Driver's License during the time you were married?

4 A. Let's see. I had License when we got married.
5 Probably about five years.

6 Q. Five years?

7 A. Yes.

8 Q. Okay. And did she -- did Ms. Prothro know when your
9 License got suspended?

10 A. Yes.

11 Q. Okay. Did -- did she know your License was suspended
12 during the entire time it has been suspended?

13 A. Yes.

14 Q. Okay. Did she know that you were driving her vehicle
15 at least two times a month as you testified earlier
16 during the time your License was suspended?

17 A. Yes.

18 Q. Okay. And so, tell me, you mentioned that you got the
19 keys on that morning on July 24th, 2016, and where --
20 where did you go?

21 A. I went by Gloria's uncle's house.

22 Q. Okay. You are talking about Gloria Oliver, my client?

23 A. Right.

24 Q. Who is her uncle?

25 A. James Cummings.

1 Q. James Cummings?

2 A. Yes.

3 Q. Okay. How did you know him?

4 A. I -- Gloria's mother used to be my girlfriend, and
5 James is her uncle.

6 Q. Okay. How long ago ---

7 A. And ---

8 Q. I'm sorry. I didn't mean to interrupt you. Go ahead.

9 A. And me and him were kind of like buddies; so, when I
10 went -- I got in the car and I went to his house and
11 we went to Gloria's house, and she asked me would she
12 give her a ride to Wal-Mart.

13 Q. Yes, sir.

14 A. I said "Okay." We went to Wal-Mart and she went in
15 the store and shopped. Me and James were out in the
16 car. She came out with her groceries and as I was
17 backing out, a car was coming behind me and I don't
18 know how I did this, but what I figure out later was
19 that my foot was on the gas and the brakes at the same
20 time, and as I seen the car coming, I went to mash the
21 brakes and the car back on up and they were yelling,
22 "Look at that car," and I hit it. And the car kept
23 backing and I was just steady mashing and steady going
24 back. And I must have panicked or something and just
25 keep going back and I'm steady mashing, and I realized

1 after it happened I realized I was mashing the gas and
2 the brakes at the same time. And what stopped me was
3 a tree.

4 Q. A tree stopped you?

5 A. Yeah.

6 Q. Okay. And I -- I just want to back up and ask you a
7 few -- a few questions about that. So, what time do
8 you think -- you went and you said you picked up Mr.
9 Cummings first?

10 A. Right.

11 Q. And then you went straight over to Ms. Oliver's house?

12 A. Right.

13 Q. Was that your idea or his idea to go over there?

14 A. I don't know.

15 Q. Okay. And at some point in time, you agreed to take
16 Ms. Oliver to Wal-Mart; is that what you said?

17 A. Right.

18 Q. Okay. Did she just ask for a ride to Wal-Mart or
19 anywhere else?

20 A. Just Wal-Mart.

21 Q. Do you remember why she needed a ride there?

22 A. To shop, buy groceries.

23 Q. Do you remember what she needed groceries for?

24 A. I don't understand.

25 Q. Yes, sir.

1 A. I didn't understand you.

2 Q. Oh, I'm sorry. Do you know what she needed groceries
3 for, anything in particular?

4 A. I guess just buying groceries.

5 Q. Okay. So, you -- you gave her a ride?

6 A. Right.

7 Q. Okay. And prior -- prior to her being in your vehicle
8 -- well, let me ask you this question. Did you
9 believe that on July 24th, 2016 that you -- that you
10 had insurance, valid insurance, on that vehicle?

11 A. Did I have valid insurance?

12 Q. Well, you would agree with me that to drive legally in
13 South Carolina, you need insurance on your vehicle; is
14 that correct?

15 A. Yes.

16 Q. You can't drive -- you can't -- you are not supposed
17 to drive without insurance; right?

18 A. Right.

19 Q. Okay. So, on July 24th, 2016, when you got in that
20 vehicle and went to Mr. Cummings' house and went to
21 Ms. Oliver's house, did you believe that you were
22 covered by insurance that day?

23 A. Yes.

24 Q. You did?

25 A. No, no, no, no. Because I wasn't on the policy.

1 Q. Okay. So, you did not believe you were covered by
2 insurance that day?

3 A. No.

4 Q. Okay. Did you ever tell Ms. Oliver on that day that
5 you were not covered by insurance?

6 A. No.

7 Q. Did she ever ask you that day if you were covered by
8 insurance?

9 A. No.

10 Q. Okay. So, that -- that topic didn't come up?

11 A. No.

12 Q. Would Ms. Oliver, who got in your car that day, would
13 she -- would anybody have ever told her to your
14 knowledge that you didn't have insurance on the
15 vehicle or that you were not an insured driver? I'll
16 strike that question and I will ask you an easier way.
17 Are you aware of whether or not Ms. Oliver would have
18 known that you had insurance on the vehicle -- whether
19 or not you had insurance on the vehicle?

20 A. No. No.

21 Q. She would not have known?

22 A. I don't think she would know.

23 Q. Okay. But you didn't tell her?

24 A. No.

25 Q. And she didn't ask you?

- 1 A. No, she didn't ask me.
- 2 Q. Okay. And so, would you all have driven straight from
- 3 her house to the Wal-Mart?
- 4 A. Yes.
- 5 Q. All right. And you parked in a parking spot, I guess?
- 6 A. Right.
- 7 Q. And was that the Wal-Mart Neighborhood -- the small
- 8 Wal-Mart Neighborhood Grocery on Bultman Drive?
- 9 A. Right.
- 10 Q. Okay. And do you remember what day of the week that
- 11 was?
- 12 A. Sunday.
- 13 Q. It was a Sunday. Okay. And how long do you think Ms.
- 14 Oliver was in the store?
- 15 A. Probably about a half hour.
- 16 Q. Half hour?
- 17 A. About that -- about that long.
- 18 Q. Okay. And what did you do while she was in the store?
- 19 A. Sit in the car.
- 20 Q. Sat in the car?
- 21 A. Yes.
- 22 Q. With Mr. Cummings?
- 23 A. Right.
- 24 Q. Did you all talk about anything in particular or do
- 25 anything in particular or just sat there?

1 A. Just sat there.

2 Q. Ms. Oliver -- Ms. Oliver came out at some point?

3 A. Yes.

4 Q. Okay. And now I think you -- I want to go back
5 through this and ask you some specific questions. So,
6 she got back in the vehicle with her groceries?

7 A. Right.

8 Q. And where was she -- do you remember where she was
9 sitting?

10 A. In the back seat.

11 Q. In the back eat?

12 A. Yes.

13 Q. Okay. And so, you went to leave?

14 A. Yes.

15 Q. All right. And where -- where was -- where was the
16 gearshift on that vehicle?

17 A. Down on the ---

18 Q. On the ground so to speak, not -- not on the column?

19 A. Not on the column.

20 Q. Okay. And so, you put it in reverse?

21 A. Yes.

22 Q. And what did you say happened from there?

23 A. As I was backing up, a car was turning, and when I
24 went to mash my brakes to stop, the car keep going.

25 Q. The car kept going?

1 A. Yes.

2 Q. And why do you believe the car kept going?

3 A. Because my foot was on the gas and the brakes.

4 Q. Okay. Do you believe that car has -- had any
5 mechanical problems at the time?

6 A. No.

7 Q. You don't. You -- how long had you all had that car
8 for?

9 A. About two years or more.

10 Q. Two years or more?

11 A. Yes.

12 Q. Had you driven it before? Before -- had you driven it
13 before July 24th, 2016?

14 A. Yes.

15 Q. Okay. And to -- to your knowledge, have the brakes
16 ever given out on you or your wife?

17 A. No.

18 Q. To your knowledge, had the accelerator on the vehicle
19 ever gotten stuck or anything like that?

20 A. No.

21 Q. So, you don't think a mechanical problem caused this?

22 A. No.

23 Q. Okay. And so, you mentioned you were backing out.

24 How many objects do you believe the vehicle collided
25 with before it stopped?

1 A. Four.

2 Q. Four?

3 A. I think.

4 Q. Were any of those vehicles; were any of those other
5 vehicles?

6 A. Yes.

7 Q. How many other vehicles do you think it hit before it
8 stopped?

9 A. I think four.

10 Q. Four. But you said at some point in time you hit a
11 tree as well?

12 A. Yes.

13 Q. So, you believe that is what stopped it?

14 A. Yes.

15 Q. Okay. And what -- during that -- during that ordeal,
16 from the time you started backing out until the time
17 you said you came to a stop against the tree, how much
18 time do you think went by?

19 A. Probably about a minute.

20 Q. A minute went by?

21 A. Yes.

22 Q. What do you think the fastest speed you ever got up to
23 during that period of time was?

24 A. Probably about seven miles an hour.

25 Q. Seven miles an hour?

1 A. Maybe.

2 Q. Would you consider that to be a high rate of speed?

3 A. No.

4 Q. During -- during the time the vehicle was in reverse,
5 do you think it ever got up to a high rate of speed?

6 A. No.

7 Q. What would you consider to be a high rate of speed?

8 A. In reverse?

9 Q. Reverse or forward.

10 A. A high rate of speed?

11 Q. Yes, sir.

12 A. In a parking lot?

13 Q. Yes, sir. That's fair.

14 A. Fifteen (15) miles an hour.

15 Q. Fifteen (15) miles an hour would be a high rate of
16 speed in reverse in a parking lot?

17 A. Yes.

18 Q. You don't believe you were going that fast?

19 A. No.

20 Q. Okay. Did you ever get a chance to look at the damage
21 to the other vehicles that were struck in the parking
22 lot?

23 A. Yes.

24 Q. Can you describe the damage to those vehicles?

25 A. Had little bents in the side and stuff.

1 Q. Little bents in them?

2 A. Yes.

3 Q. Were they -- were they all drivable as far as you know
4 from the scene?

5 A. Yes.

6 Q. They were?

7 A. Yes.

8 Q. Okay. And did any of Wal-Mart's property get struck
9 or destroyed or messed up or anything like that?

10 A. Just the tree.

11 Q. One tree?

12 A. I think it was two.

13 Q. Two trees. Okay. What did the trees look like? What
14 did the trees look like when you got out; what was the
15 damage to them?

16 A. Push -- pushed to the side.

17 Q. Okay. When you were -- when you were backing up
18 during that period of time, you said -- you said about
19 a minute from the time you started backing up until
20 the time your vehicle finally stopped, what was Mr.
21 Cummings doing the whole time?

22 A. Yelling.

23 Q. What was he yelling?

24 A. "Stop. Stop."

25 Q. Okay.

1 A. Both of them were yelling "Stop."

2 Q. What -- did Mr. Cummings do anything -- did Mr.
3 Cummings do anything during that period of time
4 besides yell?

5 A. No.

6 Q. Did Ms. Oliver do anything during that period of time
7 besides yell?

8 A. No.

9 Q. She didn't get out of the vehicle?

10 A. Yes, after -- after -- after it happened, somebody
11 came on up that she knew and she asked them would they
12 give her a ride, and they told her "Yeah." She got
13 her groceries and got out of the car before the cops
14 came there.

15 Q. Okay. We will talk about that in a second. I want to
16 ask you at what point in time did she -- did she get
17 out of the vehicle?

18 A. Right after -- right after we stopped and somebody
19 came over, she saw somebody right then ---

20 Q. Okay.

21 A. -- and jump out of the car and left.

22 Q. Let me ask you this question. After she got out of
23 the vehicle, did you continue to back the vehicle up
24 after that?

25 A. No. I didn't move. I sit right there under the

1 steering wheel until the cops came.

2 Q. So -- so, your testimony is, is that Ms. Oliver did
3 not get out of the vehicle until it was done moving
4 and it was up against the tree or the two trees?

5 A. Right.

6 Q. Okay. And so, you said the police came at some point
7 in time?

8 A. Yes.

9 Q. What happened then?

10 A. When he came, I asked him could I get out and check on
11 the peoples' cars that I hit and he told me, "Yeah,"
12 and me and him went. People saying, "What's wrong
13 with you"? I was telling them that I'm sorry and I
14 didn't know what happened. And he talked to me and he
15 gave me a ticket for reckless driving, and they took
16 me to the -- to the jail-house.

17 Q. So, he arrested you?

18 A. Yes.

19 Q. Okay. How much -- did you have any -- did you have a
20 chance to talk to anybody else at the scene about it
21 after it happened?

22 A. No.

23 Q. How fast do you -- how fast -- after your car came to
24 a stop, how long do you think it took for the police
25 officer or law enforcement officer to get to the

1 scene?

2 A. Probably about ten minutes.

3 Q. Okay. Ten minutes?

4 A. Yes.

5 Q. Your testimony is you sat in the car the whole time?

6 A. Yes.

7 Q. And Ms. Oliver got out of the vehicle?

8 A. Yes.

9 Q. How about -- how about Mr. Cummings, did he get out
10 the vehicle?

11 A. No, he didn't get out either. Oh, yeah. Well, no, he
12 didn't get out until the cops got there.

13 Q. Okay. And what all did the officers do at the scene;
14 did they -- did they give you any field sobriety
15 tests?

16 A. No.

17 Q. They didn't do anything like that?

18 A. No.

19 Q. Did you ever tell the officer that you had been
20 drinking or anything like that?

21 A. What?

22 Q. Did you ever tell the officer that you had been
23 drinking?

24 A. Yes.

25 Q. You did. What did you tell the officer?

1 A. That I had been drinking the night before and that I
2 was upset.

3 Q. Okay. And the night -- let me ask you this question.
4 In the twelve (12) hours prior to this collision
5 happening, would you agree the collision happened
6 around 9:30 in the morning?

7 A. Yes.

8 Q. Okay. Had you consumed alcohol twelve (12) hours
9 prior to this collision?

10 A. Yes.

11 Q. So, from 9:30 the previous night until 9:30 that
12 morning, you had consumed alcohol?

13 A. Yes.

14 Q. How much did you have?

15 A. Probably a half a pint.

16 Q. Half a pint?

17 A. Yes.

18 Q. Half a pint of what?

19 A. Liquor.

20 Q. Okay. What kind of liquor was it?

21 A. Vodka.

22 Q. Half a pint of Vodka?

23 A. Yeah.

24 Q. All right. Were you drinking that straight or with
25 something else?

- 1 A. Straight.
- 2 Q. All right. When do you think -- when did you consume
- 3 that?
- 4 A. Probably -- probably about -- I had it that morning
- 5 when I -- when I got up.
- 6 Q. Had you had anything the night before?
- 7 A. Yes.
- 8 Q. What did you have then?
- 9 A. Some beer and Vodka.
- 10 Q. All right. How much Vodka did you have the night
- 11 before?
- 12 A. Maybe a pint.
- 13 Q. All right. How much beer did you have the night
- 14 before?
- 15 A. Probably about four.
- 16 Q. Four?
- 17 A. Yes.
- 18 Q. Bottle or cans?
- 19 A. Cans.
- 20 Q. What size cans?
- 21 A. Twenty-four (24) ounce.
- 22 Q. Four twenty-four (24) ounce cans?
- 23 A. Yeah.
- 24 Q. All right. Do you remember what -- what brand it
- 25 would have been?

1 A. Schlitz Malt Liquor.

2 Q. Okay. Mr. Prothro, is that what you and your wife
3 were fighting about? You mentioned you all had been
4 in a fight earlier. Is that what you all were
5 fighting about?

6 A. No.

7 Q. It was not?

8 A. No.

9 Q. But you can't remember what it was that you all were
10 fighting about?

11 A. Seem like it's coming to me. She told me I was mean
12 because something with -- something was going on. She
13 probably can tell you that.

14 Q. I can ask her. Did -- did your wife know you had been
15 drinking the night before?

16 A. Yes.

17 Q. Did your wife know you had been drinking that morning?

18 A. I don't know about that morning.

19 Q. Okay. But you stayed in the house -- you stayed in
20 the house on Crescent Avenue that night; correct?

21 A. Yes.

22 Q. Was she staying there that night as well?

23 A. Yes.

24 Q. And she was there at some point when you got up and
25 left; right?

- 1 A. Yes.
- 2 Q. Okay. Which you don't know if she knew you were
- 3 drinking that morning or not?
- 4 A. I don't know.
- 5 Q. Where -- where had you been when you consumed the --
- 6 the Vodka that morning?
- 7 A. Sir?
- 8 Q. Where would you have been when you drank the Vodka
- 9 that morning?
- 10 A. Somewhere in the house.
- 11 Q. Okay. Somewhere in the house?
- 12 A. Yeah.
- 13 Q. All right. And so, you said that going back to the
- 14 scene, you said that when law enforcement came to the
- 15 scene, they actually arrested you and took you to
- 16 Sumter Lee County Detention Center?
- 17 A. Yes.
- 18 Q. And charged you with reckless driving?
- 19 A. Right.
- 20 Q. Did they charge you with anything else at all?
- 21 A. No.
- 22 Q. Okay. And did you -- did you have a License then?
- 23 A. No.
- 24 Q. Do you know why they didn't charge you with Driving
- 25 Under Suspension?

1 A. No.

2 Q. You might not know, but did you have any conversation
3 about that with the officer at all?

4 A. No.

5 Q. Okay. And how long did you have to -- how long did
6 you stay in the jail for over there?

7 A. Until the next morning.

8 Q. The next morning?

9 A. Yes.

10 Q. So, Monday morning?

11 A. Yes.

12 Q. Okay. Did you get a bond set for you or did they just
13 let you go?

14 A. They let me go.

15 Q. Okay. What happened -- what happened to that vehicle?
16 What happened to that Ford Contour; do you know?

17 A. We junked it.

18 Q. You jumped it?

19 A. Junked it.

20 Q. You junked it?

21 A. Yeah.

22 Q. Okay. I got you. It was totaled?

23 A. No, it wasn't totaled. It was drivable, but it was
24 bent up.

25 Q. Okay. Did -- did your wife ever drive it again after

1 July 24th, 2016?

2 A. Yes.

3 Q. Your wife did drive it?

4 A. Yes.

5 Q. Okay. How -- for how long?

6 A. Maybe a few days.

7 Q. A few days?

8 A. Yes.

9 Q. Did you ever drive that Ford Contour again ---

10 A. No.

11 Q. -- after July 24, 2016?

12 A. No.

13 Q. You did not?

14 A. No.

15 Q. Okay. So, what -- how long after this wreck did you
16 all get rid of that vehicle or junk the vehicle as you
17 said?

18 A. It sat in the yard for maybe a month.

19 Q. A month?

20 A. Yeah.

21 Q. Were you all -- was your wife able to get another car
22 after that?

23 A. Yes.

24 Q. Okay. What kind of vehicle is that?

25 A. A Sedona.

1 Q. Okay. Is she still driving that vehicle?

2 A. Yes.

3 Q. Have you ever driven that vehicle?

4 A. No.

5 Q. You have never driven it?

6 A. No.

7 Q. Okay. Have you -- have you driven any vehicle since
8 July 24th, 2016?

9 A. No.

10 Q. Okay. So, if somebody said they saw you driving since
11 July 24th, 2016, they would be lying?

12 A. Yeah.

13 Q. Okay. All right.

14 A. Somebody -- somebody asked me one day, "Are you still
15 driving"? I told them, "Yeah." But I wasn't.

16 Q. You told somebody you were still driving?

17 A. Yeah.

18 Q. Who did you tell that to?

19 A. Gloria.

20 Q. When did you tell her that?

21 A. On Manning Avenue.

22 Q. Do you remember when that was?

23 A. Last year sometime.

24 Q. Is there a reason why you told her that?

25 A. No.

1 Q. Okay. But that wasn't -- that wasn't the truth
2 though?

3 A. No.

4 Q. Okay. Bear with me one second.

5 A. Okay.

6 Q. Mr. Prothro, do you have any recollection of being
7 arrested for Driving Under Suspension around July
8 15th, 2016, which would have been about nine days
9 before this -- this incident happened?

10 A. Being arrested?

11 Q. Well, I'll scratch that question. Do you remember --
12 do you remember being charged with Driving Under
13 Suspension on around July 15th, 2016?

14 A. Yes.

15 Q. Okay. Were you driving that day?

16 A. Yes.

17 Q. All right. And which car were you driving?

18 A. The same one.

19 Q. The same Ford Contour?

20 A. Yes.

21 Q. Did you have permission to drive it that day?

22 A. No.

23 Q. You didn't. Did your wife know you were driving it
24 that day?

25 A. No. She was next door.

1 Q. Okay. So, she didn't know you were driving that day?

2 A. And I took it and went up the street.

3 Q. Okay.

4 A. And on the way back, they stopped me.

5 Q. Who stopped you?

6 A. The cop. Said I didn't -- he said that I didn't give
7 a signal at a -- when I was turning.

8 Q. Okay.

9 A. And he pulled me over and checked me and my License
10 was suspended.

11 Q. All right. And took -- and took you to jail for that?

12 A. No.

13 Q. They didn't take you to jail for that?

14 A. No.

15 Q. They wrote you a ticket for it?

16 A. Yes.

17 Q. Did your wife find out about that?

18 A. Yes.

19 Q. When did she find out?

20 A. Right then.

21 Q. Right then when you got home?

22 A. They -- they went to the house and got her and have
23 her to come and get the car and -- and let me go home.

24 Q. Okay. So, you -- you agree with me that wasn't --

25 that wasn't even two weeks prior to this -- this July

1 24th, 2016 wreck, was it?

2 A. Right.

3 Q. Okay. Bear with me one second. All right. And the
4 year -- a year prior to this collision happening on
5 July 24th, 2016, do you remember getting a ticket for
6 Driving Under Suspension around April 28th, 2015,
7 which would have been close to a year and three months
8 prior to this wreck; do you remember that one?

9 A. When was this date?

10 Q. I'm just asking you if you recall a Driving Under
11 Suspension charge that you had on April 28th, 2015
12 which would have been almost a year and three months
13 prior to the July 24th, 2016 wreck.

14 A. Do I remember that -- I can't remember that.

15 Q. So, you don't -- you don't remember the 2015 charge?

16 A. Let me think. When they stop me on North Main --
17 2015 -- I don't recall that.

18 Q. Okay. All right. And after July 24th, 2016, have you
19 had any more conversations with anybody else about
20 this collision?

21 A. No.

22 Q. Did you ever talk to -- did you ever give a statement
23 to the insurance company about the collision on July
24 24th, 2016?

25 A. I didn't.

1 Q. You never did?

2 A. I didn't.

3 Q. Okay. What happened with your reckless driving charge
4 that you got on July 24th, 2016?

5 A. What?

6 Q. What happened with your reckless driving charge that
7 you got on July 24th, 2016?

8 A. They gave me a fine to pay.

9 Q. Gave you a fine to pay?

10 A. Yes.

11 Q. Did you take care of that?

12 A. Yes.

13 Q. Okay. You didn't -- you didn't fight that or anything
14 like that?

15 A. No.

16 Q. Okay. Have you -- have you had any sort of traffic
17 incidents or traffic tickets since July 24th, 2016?

18 A. No.

19 Q. Okay. And I'm going to ask you a few questions. And
20 I'm getting to the end here, Mr. Prothro. I only get
21 one chance to ask you questions before -- before we go
22 to a trial; so, I want to make sure I ask you
23 everything. Are you -- are you aware of a -- of a
24 claim being filed on behalf of -- on behalf of Gloria
25 Oliver with Progressive Insurance Company as a result

1 of the July 24th, 2016 wreck?

2 A. Yes.

3 Q. Okay. And are you aware that that claim has been
4 denied by Progressive Insurance Company?

5 A. Yes.

6 Q. Okay. And are you -- are you aware that claims were
7 filed not only against the liability coverage of that
8 vehicle, but also the Uninsured Motorist coverage of
9 that Ford Contour?

10 A. Yes.

11 Q. You are aware of that?

12 A. Yes.

13 Q. And are you aware that -- that Progressive has denied
14 both of those claims?

15 A. Yes.

16 Q. And that is why we are here today?

17 A. Right.

18 MR. CRUDUP: Objection to the form.

19 Q. Okay. And you -- you understand that Progressive has
20 a -- you -- has anyone told you that Progressive has
21 a separate lawsuit against you and Ms. Oliver -- and
22 your wife, Ms. Oliver, and my client -- I'm sorry --
23 you and your wife, Ms. Prothro, and my client, Ms.
24 Oliver over that coverage, are you aware of that
25 lawsuit?

1 A. No.

2 Q. You are not aware of that?

3 A. Uh-uh (negative response).

4 Q. Okay. And you -- are you aware that my client, Ms.
5 Oliver, has made attempts to settle with Progressive
6 for inside of the coverage that your wife maintained?

7 A. No, I don't know about it.

8 Q. Okay. And do you understand that if Ms. -- if Ms.
9 Oliver were to get a verdict against you or your wife
10 and Progressive does not -- if Progressive doesn't --
11 doesn't end up paying that verdict, that you and your
12 wife will be personally liable for that? You
13 understand that?

14 A. I hear you.

15 Q. Has anyone talked to you about that from Progressive?
16 I don't want to know what your lawyer has talked to
17 you about; has anybody talked to you about that with
18 Progressive?

19 A. No.

20 Q. Has anyone with Progressive shared with you that we
21 have attempted to settle with them?

22 A. No.

23 Q. Okay. Mr. Prothro, are you -- are you aware of your
24 wife signing a -- an exclusion form on your policy
25 that would exclude you as a driver on the Progressive

1 policy that covered the Ford Contour that we are
2 talking about today?

3 A. Could you explain that?

4 Q. Well, I will just show you the piece of paper right
5 here and I'll -- I will mark this as Plaintiff's
6 Exhibit Number One on this deposition.

7 COPY OF NAMED DRIVER EXCLUSION ELECTION
8 MARKED PLAINTIFF'S EXHIBIT NUMBER ONE.

9 Q. Okay. I will show you this, and for identification
10 purposes, I will just -- I will just tell you that it
11 is a Named Driver Exclusion Election that has been
12 provided by your attorney in the course of our
13 Discovery. Have you ever seen that before?

14 A. Yes.

15 Q. You have seen that before?

16 A. Yes.

17 Q. When is the first time you saw that?

18 A. I guess when she first took out the insurance.

19 Q. Okay. You said, "When she first took out the
20 insurance." Who are you talking about; who is she?

21 A. Sharon.

22 Q. Okay. She would have told you about this or showed it
23 to you or both?

24 A. I was in there.

25 Q. You were with her?

1 A. Yes.

2 Q. Okay. You were with her at the insurance agent's
3 office?

4 A. Yes.

5 Q. Where was that?

6 A. It was on -- what is that? I can't think of the name
7 of that street. It's still out there. I can't -- I
8 can't think of the name of that street.

9 Q. Do you remember when that would have been?

10 A. No.

11 Q. You would agree with me that on this Exhibit that is
12 marked Plaintiff's Number One, can you read the date
13 on there?

14 A. April the 2nd, '09.

15 Q. And is that the date you were there at the insurance
16 office?

17 A. Yes.

18 Q. When your wife purchased insurance?

19 A. Right.

20 Q. Did that happen more than once or just one time?

21 A. Just once.

22 Q. Okay. And do you recognize that signature?

23 A. Yes.

24 Q. I'm going to ask your wife, but does that look like
25 her signature to you?

1 A. Yes.

2 Q. Okay. And so, did somebody -- did somebody at some
3 point in time tell you that you were an excluded
4 driver?

5 A. Yes.

6 Q. Who told you that?

7 MR. CRUDUP: Thomas, could I go
8 off the record for a minute?

9 MR. McELVEEN: Sure.

10 (OFF THE RECORD)

11 MR. McELVEEN: Back on the record.

12 EXAMINATION BY MR. McELVEEN CONTINUED:

13 Q. So, the last question I think I asked you, Mr.
14 Prothro, do you remember sitting there when this --
15 when this document was signed ten years ago?

16 A. Yes.

17 Q. Okay. Did it happen more than once or just the one
18 time?

19 A. One time.

20 Q. Did you all have the Ford Contour back in 2009? I'm
21 just wondering back in 2009, are we talking about the
22 same Ford Contour or a separate vehicle?

23 A. I'm not sure because we had another car before the
24 Contour.

25 Q. Okay. When this -- this exclusion -- you say you

1 think you were there when this was signed?

2 A. Yes.

3 Q. Okay. And in the time since that was signed, which is
4 roughly, what, ten years, you agree the wreck, this
5 wreck that we are here for today, happened about seven
6 years after this was signed; right?

7 A. Right.

8 Q. How many times do you think you drove in -- in those
9 seven years?

10 A. Not much.

11 Q. Okay. Let me -- let me ask you this question.
12 Between April 2nd, 2009 and July 24th, 2016, how many
13 times do you think you drove a vehicle that was
14 insured by -- by Progressive?

15 A. I couldn't say.

16 Q. You couldn't say?

17 A. No.

18 Q. Okay. Was it more than one time?

19 A. More than one time.

20 Q. More than five times?

21 A. More than five times.

22 Q. Okay. And so, earlier, I think you testified that
23 since you have been suspended, you probably drove a
24 household vehicle twice a month on average?

25 A. Yeah.

1 Q. All right. So -- so, you agree with me that between
2 April 2nd, 2009 and July 24th, 2016, that is about
3 seven years; right?

4 A. Yes.

5 Q. Seven and some change. All right. And eighty-four
6 (84) months twice a month, that's about a hundred and
7 sixty-eight (168) times. Do you think -- do you think
8 you drove more or less than a hundred and sixty-eight
9 (168) times between April 2nd, 2009 and July 24th,
10 2016?

11 A. I guess that's about -- about right.

12 Q. All right. Did your wife know about you driving the
13 car that many times?

14 MR. CRUDUP: Object to the form.

15 A. Not all the time.

16 Q. Or what -- out of -- out of all those times, how many
17 times do you think she knew about it?

18 A. A lot of times, she won't -- she'd be somewhere and
19 the car be there, and I'd just get in and go.

20 Q. Okay. So, out of the times that you just said that
21 you have driven the car in this seven year period, how
22 many times do you think she knew you were driving?

23 A. Maybe a third of the time.

24 Q. A third of the time. And let me ask you this
25 question. Did you ever have like a separate key that

1 you got made that she didn't know about?

2 A. No.

3 Q. Okay. And so, the key that you used is the same key
4 that she used?

5 A. Yes.

6 Q. All right. Was there any other keys that were around
7 the house or hidden anywhere?

8 A. Oh, I forgot. We had another key made one time
9 because we -- that car, you could crank it up, ---

10 Q. Yes, sir.

11 A. -- and let it heat up and while it was heating up, you
12 close the door and it would lock, and we did had
13 another key made.

14 Q. For the purposes of keeping it locked while it was
15 heating up?

16 A. Yes.

17 Q. Is that what you are saying?

18 A. No, no. While it was running, sometimes, you shut the
19 door and it would just lock with the key in it.

20 Q. Oh, it was a lock key. I got you.

21 A. Yes.

22 Q. So, you needed a backup plan to get in the vehicle?

23 A. Yeah, right.

24 Q. When did that start?

25 A. She can tell you better than me about that because I

1 don't -- I can't remember too good.

2 Q. Who kept up with the keys to the vehicle, to the Ford
3 Contour?

4 A. She did.

5 Q. Okay. But you never had like a separate key made that
6 she didn't know about?

7 A. No.

8 Q. Okay. All right. And just a few more questions I
9 promise you, Mr. Prothro, and I will stop asking
10 questions. On the day of July 24th, 2016, the
11 incident we are here for today, do you think you did
12 anything to cause the collision?

13 A. Yes.

14 Q. What do you think you did to cause the collision?

15 A. Like I said, I was mashing the brakes and the gas at
16 the same time.

17 Q. Okay. And do you think there was anybody else that
18 did anything to cause that collision?

19 A. No.

20 Q. All right. Do you think my client, Ms. Oliver, did
21 anything to cause that collision?

22 A. No.

23 Q. Okay. Do you think she did anything at all to cause
24 any -- any part of this incident to happen on July
25 24th, 2016?

1 A. No.

2 Q. Okay. I appreciate you answering my questions. And
3 you can answer any questions that your attorney may
4 have.

5 A. Okay.

6 MR. CRUDUP: I have no questions.

7 (THERE BEING NO FURTHER QUESTIONS, THE DEPOSITION WAS
8 CONCLUDED AT 6:07 P.M.).

9

1 STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER) CERTIFICATE

I, Doris Tompkins Brown, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, certify that I did have Richard Prothro appear before me commencing at 4:36 P.M. on December 2, 2019 at the offices of the Bryan Law Firm of SC, LLP, 17 East Calhoun Street, Sumter, South Carolina; that the witness was duly sworn and cautioned to tell the truth; that the foregoing pages constitute a true and accurate transcript of the testimony given at that time and place.

I hereby certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 6th of January, 2020.

Doris Tompkins Brown, CVR
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission expires: 4-02-2025

Policy Number 55178995-C
 SHARON PROTHRO
 Page 5 of 12

Named Driver Exclusion Election

You have named the following persons as excluded drivers under this policy:

RICHARD PROTHRO

Date of Birth May 5 1955

No coverage is provided for any claim arising from an accident or loss involving a motorized vehicle being operated by an excluded person. This includes any claim for damages made against any named insured, resident relative, or any other person or organization that is vicariously liable for an accident or loss arising out of the operation of a motorized vehicle by the excluded driver.

This form must be signed by the named insured.

I understand and agree that this Named Driver Exclusion election shall apply to this policy and any renewal, reinstatement, substitute, amended, altered, modified or replacement policy with this company or any affiliated company, unless a named insured revokes this election.

I declare that either the driver's license of the excluded persons named in this Named Driver Exclusion election has been turned into the Department of Motor Vehicles, or that an appropriate policy of liability insurance or other security as may be authorized by law has been properly executed in the name of the person to be excluded.

Signature of named insured

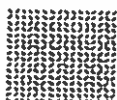
Date

X *Sharon G. Prothro*

7-2-21

Form 9330 SC (04/07)

Claim # 165237341



Continued

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF SUMTER) C/A NO.: 2018-CP-43-1323

Gloria D. Oliver,)

Plaintiff,)

vs.)

Richard Prothro and Sharon Prothro,)

Defendants.)

Deposition of SHARON PROTHRO, taken by Doris Tompkins Brown, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, commencing at 6:09 P.M. on December 2, 2019 at the offices of The Bryan Law Firm, LLP, 17 East Calhoun Street, Sumter, South Carolina.

APPEARANCES

ON BEHALF OF THE PLAINTIFF: Thomas E. McElveen, III
The Bryan Law Firm, LLP
Post Office Box 2038
Sumter, South Carolina

ON BEHALF OF THE DEFENDANTS: Jeffrey M. Crudup
Clarkson Walsh & Coulter
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Mount Pleasant, S.C.

Doris Tompkins Brown

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DEFENDANT'S
EXHIBIT

H

ON BEHALF OF PROGRESSIVE

NORTHERN INSURANCE COMPANY: Sarah E. Caiello
Murphy & Grantland, P.A.
Post Office Box 6648
Columbia, South Carolina

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* * * * *

(COURT REPORTER'S NOTE: --- INDICATES INTERRUPTION,
INCOMPLETE PHRASE, TRAILING OFF, INCOMPLETE SENTENCE)

GLORIA D. OLIVER VS.
RICHARD PROTHRO AND SHARON PROTHRO

1 The deposition of Sharon Prothro is being taken
2 pursuant to Notice and in accordance with the South
3 Carolina Rules of Civil Procedure and Amendments as adopted
4 by the Supreme Court which shall control the taking of said
5 deposition and its use thereof.

6 Counsel, with the specific consent of the witness,
7 waives the reading and signing of the deposition prior to
8 the time it is filed with the Court.

9 (Sharon Prothro, having been duly sworn, testifies as
10 follows:)

11 EXAMINATION BY MR. McELVEEN:

12 Q. Good evening, Ms. Prothro.

13 A. How are you?

14 Q. I'm doing okay. I'm sorry we are here this late.

15 A. That's all right.

16 Q. We met earlier. My name is Thomas McElveen. Again,
17 I represent the Plaintiff in this action, Ms. Gloria
18 Oliver, in a lawsuit that has been brought against
19 your husband, Richard Prothro, and against you here in
20 Sumter County.

21 A. Yes.

22 Q. It relates to an incident that happened back on July
23 24th, 2016. And I know that you were sitting here
24 throughout your husband's entire deposition and I
25 appreciate you being here. I have still kind of got

GLORIA D. OLIVER VS.
RICHARD PROTHRO AND SHARON PROTHRO

ELECTRONICALLY FILED - 2021 Jul 12 2:50 PM - SUMTER - COMMON PLEAS - CASE#2019CP4300105

1 to go over a few things with you as well.

2 A. Okay.

3 Q. Is this your first time doing this?

4 A. Yes.

5 Q. And so, I'm going to ask you some of the same
6 questions that you have probably had time to think
7 about. The first one is, are you currently under any
8 sort of care of a psychiatrist, mental health
9 professional or anything like that?

10 A. Yes.

11 Q. You are?

12 A. Yes.

13 Q. Okay. Can you tell me about that?

14 A. I go to Santee Mental Health Wateree. I see Dr. Davis
15 and I see the nurse, and I'm on two medications.

16 Q. Okay. Is there a certain condition that you have that
17 you treat with them for?

18 A. Anxiety ---

19 Q. Anxiety?

20 A. -- and PTSD.

21 Q. Okay. How long have you been -- how long have you
22 been treating for those conditions?

23 A. About eight years.

24 Q. Eight years?

25 A. Uh-huh (affirmative response). Yes.

1 Q. Okay. And I can -- I can assure you, Ms. Prothro, no
2 one wants to ask personal questions or anything like
3 that and that's really not why I'm here today, but I
4 only get one chance to ask you questions before we get
5 to a trial down the road. This is my only shot to ask
6 you questions; so, I'm -- I'm just trying to learn
7 more about you, mainly, for jury selection purposes.

8 A. I understand.

9 Q. And so, I don't mean to pry or anything like that, but
10 what sort of medications are you on currently?

11 A. I take Fluoxetine, 40 milligrams, and I take Prazosin,
12 one milligram.

13 Q. Okay. And are those for -- are those -- are those for
14 the same conditions that you just told me about?

15 A. Yes.

16 Q. Have you taken those today?

17 A. Yes.

18 Q. Do they affect your ability to do things, like, drive?

19 A. No.

20 Q. Okay. So, you can understand my questions and answer
21 them ---

22 A. Yes.

23 Q. -- today with no problems?

24 A. Yes.

25 Q. Is today -- other than it being 6:00 o'clock on Monday

1 night, is today like worse than any other day to take
2 your deposition or is it as good ---

3 A. No. With the medications, I'm doing fine.

4 Q. Okay. I don't think there is ever a good day to do
5 this, but I'm just -- I'm asking ---

6 A. I'm fine. I'm not nervous or anything.

7 Q. You can handle this today?

8 A. Yes.

9 Q. Okay. All right. Are you on any other medications or
10 anything like that today?

11 A. Yes.

12 Q. What else are you taking today?

13 A. I take two high blood pressure medicines. I take
14 Quinapril, 40 milligrams, and I take Amlodipine, ten
15 milligrams. I take Meloxicam for arthritis, fifteen
16 (15) milligrams. And I take Metformin for diabetes.

17 Q. Okay. And you have taken all that medication within
18 the last twenty-four (24) hours?

19 A. Yes.

20 Q. Does that -- does that affect your ability ---

21 A. Well, one of the mental health medicines, I take it at
22 night when I go to bed.

23 Q. Okay.

24 A. All the rest of them I take in the mornings.

25 Q. Okay. Does any of that medication make you drowsy?

1 A. No.

2 Q. Can you operate a motor vehicle while you are taking
3 that medication?

4 A. Yes, but when I first take it, I don't have to just
5 get out and drive unless -- and if I have a doctor's
6 appointment, I can get a ride with my sister or I can
7 call transportation from my health insurance.

8 Q. Okay.

9 A. I never get under the steering wheel when I'm not able
10 to drive.

11 Q. Understand. Did you drive here today?

12 A. Yes.

13 Q. And you probably got here what, 3:30 today?

14 A. Yes.

15 Q. So, you have been here for a while?

16 A. Yes.

17 Q. Are you going to have any problems driving home
18 tonight?

19 A. No.

20 Q. Okay.

21 A. I live right down Bartlette Street. I'm going
22 straight home.

23 Q. Okay. Understand. And just to go over a few things
24 with you again, I know you -- you heard this earlier,
25 but you are doing great. If I ask you a yes or no

1 question and your response is yes or no, just try to
2 use that word yes or no so the court reporter here can
3 pick it up.

4 A. Okay.

5 Q. I can understand what you are saying.

6 A. Okay.

7 Q. The same thing I told your husband about me asking
8 questions, sometimes, I want to jump ahead to the next
9 question before you have finished your answer, and
10 sometimes, ---

11 A. Right.

12 Q. -- you are going to know what I'm asking you and you
13 are going to start answering me and I'm going
14 understand you, but she has a hard time getting that
15 down.

16 A. Okay.

17 Q. So, let's try not to talk over each other; okay?

18 A. Okay.

19 Q. The other thing is and I know you heard me say this,
20 is that, and I actually told you one time, that you
21 couldn't help Mr. Prothro.

22 A. I understand.

23 Q. And I understand why you wanted to try -- you are
24 trying to help, but during the course of this
25 deposition, you can't look to anybody else for -- for

1 answers. It's just our -- our rule; okay?

2 A. Okay.

3 Q. And you can certainly take a break if you need one.

4 A. I'm fine.

5 Q. But if you need one during the deposition, just tell
6 me.

7 A. I'll let you know if I need one.

8 Q. Okay. But you understand that if you talk to your
9 attorney -- this is the one time where, if you talk to
10 your attorney during a break, I can ask you about
11 those conversations that you have.

12 A. Okay.

13 Q. But I don't want you to tell me anything else that you
14 talked to your attorney about, period; okay?

15 A. Okay.

16 Q. That is attorney/client privilege and I'm not allowed
17 to ask questions and you don't have to answer them
18 about that. Okay?

19 A. Okay.

20 Q. And you understand also that while we are not in a
21 courtroom today, this is like a Court proceeding.
22 It's -- it's a deposition. You are under oath. You
23 understand that?

24 A. Yes.

25 Q. And you understand that the same penalties of perjury

1 would apply here as they would in a courtroom if you
2 don't tell the truth?

3 A. Yes.

4 Q. Okay. And if I ask you a question and, again, I mean,
5 we have been doing this for a while today. If I ask
6 you a question that you don't understand or you need
7 me to repeat it, just ask me. I'm -- I'm happy to do
8 that.

9 A. Okay.

10 Q. I asked several questions of your husband I think that
11 I had to restate or rephrase because I hadn't asked it
12 right. So, if you have a problem with a question,
13 just tell me, but again, if -- if you answer my -- if
14 I ask you a question and you answer it, I'm going to
15 assume that you understood my question and answered it
16 truthfully because you are under oath. Is that fair?

17 A. That's fair.

18 Q. Okay. And so, let's just start with, can you state
19 your full name for the record?

20 A. Sharon Wells Prothro.

21 Q. Okay. Was Wells your maiden name?

22 A. Yes. I was -- I was married before. He didn't
23 understand you. That's my pre -- pre first marriage
24 the Day -- that was the Day when he met me, but Wells
25 is my maiden name.

1 Q. Day was your first husband?

2 A. Yes.

3 Q. Okay. I understand. Wells is -- is your maiden name?

4 A. Yes.

5 Q. So, are you from Sumter County also?

6 A. Yes.

7 Q. Were you born and raised here?

8 A. Yes.

9 Q. Have you lived anywhere besides Sumter County?

10 A. No.

11 Q. All right. And the same questions that I asked him
12 earlier. What is your date of birth?

13 A. 1-22-1957.

14 Q. Okay. So, you are a little bit younger than your
15 husband?

16 A. Yes.

17 Q. All right. And do you know your Driver's License
18 Number?

19 A. 004455683.

20 Q. All right. And I'm going to ask your Social Security
21 Number also. I don't want you to tell me that until
22 we go off the record.

23 A. Okay.

24 Q. We will go off the record and you give me that number.

25 A. Okay.

(OFF THE RECORD)

MR. McELVEEN: We can go back on the
record.

EXAMINATION BY MR. McELVEEN CONTINUED:

Q. What is your current address?

A. 125 West Bartlette Street, Apartment 502.

Q. All right. And how long have you lived there for?

A. Since May the 6th of this year, 2019.

Q. And who do you live there with?

A. Richard Prothro.

Q. Okay. And prior to that, where did you live?

A. 111 Crescent Avenue.

Q. How long were you all there for?

A. About twelve (12) years.

Q. Okay. Did -- did you all own that property or ---

A. We rented.

Q. You rented. Who -- who did you rent from?

A. Robert Moses.

Q. You just moved out this year?

A. Yes.

Q. Was that the only home that you lived in while you
were married or were there other places that you ---

A. No, we lived at 895 Glisson Road.

Q. How long were you all there for?

A. Oh, probably about -- about seven years.

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RICHARD PROTHRO AND SHARON PROTHRO

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1 Q. Seven years. When were you all married?

2 A. June the 16th of 2008.

3 Q. Okay. Were -- were you all together before you got
4 married?

5 A. We've been together about twenty-two (22) years, I
6 think. We stayed together until we got married and
7 we're still together.

8 Q. Okay. So, you -- you have basically been -- you guys
9 have been together twenty-two (22) years straight
10 through?

11 A. No.

12 Q. No breaks or anything like that?

13 A. No breaks or anything.

14 Q. How long have you guys lived to -- how long have you
15 and Mr. Prothro lived together?

16 A. We lived together from about 1999 until now.

17 Q. Twenty (20) years roughly?

18 A. Yes.

19 Q. Okay. And the house that you were -- that you lived
20 in on Crescent Avenue, ---

21 A. Yes.

22 Q. -- that was where you lived when this incident
23 happened on July 24th, ---

24 A. Yes.

25 Q. -- 2016?

1 A. Yes.

2 Q. Okay. And can you kind of describe that -- that place
3 for me? He mentioned it was a ---

4 A. It's a duplex. It was another family in one side and
5 we lived in the other side. We had two bedrooms, a
6 kitchen, a living room and bathroom in the hall.

7 Q. One bathroom or two?

8 A. One.

9 Q. One bathroom. Do you know how many square feet that
10 place was?

11 A. No.

12 Q. Okay. And not to jump around too much, but your
13 maiden name was Wells. Were your parents from Sumter
14 County also?

15 A. Yes.

16 Q. And what part of Sumter County?

17 A. Off of Tindal Road, 15 South off the Old Manning Road.

18 Q. Is either of your parents still alive?

19 A. My mother's alive.

20 Q. Okay. What is her name?

21 A. Willie Mae Hastie.

22 Q. Is that T-Y or T-I-E?

23 A. T-I-E. They both related, but part of the family
24 spell their names with the Y and some with the other.

25 Q. Yes, ma'am. So, your mom is Willie Mae Hastie?

1 A. Yes.

2 Q. What kind of work did she do?

3 A. Domestic work.

4 Q. Does she -- does she live on her own now?

5 A. She still lives on Tindal Road.

6 Q. Okay. How about your father, what was his name?

7 A. My stepfather raised me. His name was Woodrow Hastie,
8 Senior.

9 Q. Okay. What kind of work did he do?

10 A. He worked at Georgia Pacific and farmed and retired
11 from Georgia Pacific.

12 Q. How -- how about your biological father, do you know
13 much about him or ---

14 A. I knew of him, but he's deceased.

15 Q. Okay. Do you know what kind of work he did or
16 anything like that?

17 A. No.

18 Q. Do you know his name?

19 A. Yeah, I know his name.

20 Q. What's his -- what was his name?

21 A. Julius Lavine.

22 Q. Julius Lavine was his name?

23 A. Uh-huh (affirmative response).

24 Q. So, where did you get -- where did Wells come from?

25 A. The Wells is my mother's maiden name. She wasn't

1 married to my father.

2 Q. I understand. Okay.

3 A. Uh-huh (affirmative response).

4 Q. I understand. All right. And do you have any
5 brothers and sisters?

6 A. Yes.

7 Q. Are they here in Sumter County?

8 A. I have one brother that lives in Elgin. He's -- he's
9 a child support deputy. He works in Columbia.

10 Q. Okay.

11 A. And I have a younger sister that lives in Fort
12 Washington, Maryland, and she's an accountant. And I
13 have an older sister that lives here. She's retired
14 from Cooper Tools after thirty-five (35) years.

15 Q. Okay. What is her name?

16 A. Patricia Williams.

17 Q. All right. And I think you might -- he might have
18 mentioned her.

19 A. That's my sister that he mentioned.

20 Q. Okay. And what -- who is her husband?

21 A. James Williams.

22 Q. What kind of work does he do?

23 A. He retired from McCrory Construction. He was a heavy
24 equipment operator.

25 Q. So, not -- not the funeral home Williams?

1 A. No.

2 Q. Okay. All right.

3 A. Construction.

4 Q. That is the only sister that you have living here,
5 only sibling you have in Sumter County?

6 A. In Sumter County, yes.

7 Q. That's what I'm interested in.

8 A. Other than -- other than the baby brother that lives
9 in Elgin. He's from Sumter, but he -- he's -- he
10 resides in Elgin.

11 Q. Yeah, I'm really concerned about the ones who live
12 here now mainly. That's for if we get to a jury
13 trial, ---

14 A. Okay.

15 Q. -- I will use that information for Sumter County.

16 A. Okay.

17 Q. And so, did you have -- do you have any children?

18 A. Yes.

19 Q. How many children do you have?

20 A. Two.

21 Q. Okay. And what are -- what are you kids' names?

22 A. My oldest son is Deron Day. He's in the Air Force.
23 And he resides in Lexington, South Carolina.

24 Q. Okay. Is he married?

25 A. Yes.

- 1 Q. Is he married to someone from Sumter or somewhere ---
- 2 A. No, someone from Fayetteville.
- 3 Q. Okay. And he is with the Air Force you said?
- 4 A. Yes.
- 5 Q. All right. And what was -- what was your first
- 6 husband's name?
- 7 A. John Day.
- 8 Q. Is he from Sumter?
- 9 A. Yes.
- 10 Q. Is he still alive?
- 11 A. Yes.
- 12 Q. And what does he do for a living?
- 13 A. As far as I know, he's retired. I don't know what he
- 14 does.
- 15 Q. Do you know where he retired from by any chance?
- 16 A. No.
- 17 Q. Okay. And your other child's name?
- 18 A. Martineek Day.
- 19 Q. In Sumter County or somewhere ---
- 20 A. He's in Florida.
- 21 Q. He is in Florida?
- 22 A. Yes.
- 23 Q. Okay. What kind of work does he do?
- 24 A. He drives transit for Amazon.
- 25 Q. All right. Is -- is he married?

1 A. Yes.

2 Q. To somebody from Sumter or somewhere else?

3 A. Someone from Delaware.

4 Q. Okay. All right. And so, just to kind of cut to the
5 chase on this, what I'm looking for is any -- any last
6 names of kin that you think you have in Sumter County
7 by blood or marriage. Even the ones you don't want to
8 claim; okay?

9 A. Okay.

10 Q. Somebody that you feel like you are related to -- you
11 know, my last name is McElveen -- I'm related to
12 Watson's and Brogdon's and Curtises and a lot of
13 different families, distantly. So, anybody that you
14 think you are kin to in Sumter County, what would the
15 last names be?

16 A. Wells, Hastie. Wells and Hastie and Williams.

17 Q. Okay. No other last names that you would claim as kin
18 in Sumter County?

19 A. Smiling.

20 Q. Smiling's?

21 A. Yeah.

22 Q. Okay. S-M-I-L-I-N-G?

23 A. Yes. My aunt is married to a Smiling.

24 Q. I got it.

25 A. My mama's sister.

1 Q. Okay. Anybody else?

2 A. No one else.

3 Q. Okay. All right. And tell me. how far did you go in
4 school?

5 A. Twelfth grade.

6 Q. Twelfth grade; did you graduate?

7 A. Yes, I graduated.

8 Q. Where did you graduate from?

9 A. Furman High School, 1975.

10 Q. Got it. And did you go there all four years of high
11 school?

12 A. Yes.

13 Q. All right. How about middle school?

14 A. Manchester.

15 Q. How about -- how about elementary school?

16 A. Manchester Elementary.

17 Q. Okay. So, you -- you grew up in Pinewood, around
18 Pinewood?

19 A. I grew up on Tindal Road, but the children that lived
20 on Tindal Road had to go to Manchester.

21 Q. I got you. Okay. And did you have any sort of
22 education or training past high school?

23 A. I have a Home Health Aide Certificate that I used to
24 do that kind of work for a little while. I got that
25 from Sumter Tech and Shaw Tech.

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1 Q. So, back before Central Carolina ---

2 A. Yes.

3 Q. -- and Sumter Tech, you got that?

4 A. Yes.

5 Q. Okay. Any other Certificates or training or any
6 Degrees that you have gotten?

7 A. That's it.

8 Q. That's it. Okay. Have you ever served in the
9 military?

10 A. No.

11 Q. All right. And can you tell me about your -- your job
12 history? So, going back to the first job you had in
13 Sumter County, what would that have been?

14 A. The first job I ever had in Sumter County was a baby-
15 sitting job. I worked for the Williams, Drakeford's
16 and Irene Williams.

17 Q. Okay. And how long did you do that for?

18 A. For about two years.

19 Q. All right. Where else have you worked in Sumter
20 County?

21 A. I worked at Georgia Pacific.

22 Q. How long did you work there for?

23 A. About a year.

24 Q. What kind of work did you do there?

25 A. Feeding dry -- wet veneer into a big dryer to make bed

1 rails.

2 Q. Okay. What did you do after that?

3 A. Then after that I worked to Burger -- to Young's
4 Market.

5 Q. Which one? More than one of them?

6 A. Well, I used to mostly work to the one on Oswego
7 Highway, but I worked at all of them before back then.

8 Q. Okay. How long did you work for Young's?

9 A. Probably about eight years.

10 Q. All right. Anywhere else?

11 A. Burger King.

12 Q. How long did you work there for?

13 A. Eight years.

14 Q. Which one?

15 A. On Broad.

16 Q. All right.

17 A. Sumter Pigeon Plant.

18 Q. How long did you work there for?

19 A. About a year.

20 Q. Did you work on Broad Street or somewhere else for
21 them?

22 A. Broad.

23 Q. Broad Street. What were you doing there?

24 A. At the Pigeon Plant?

25 Q. Yes, ma'am.

1 A. Plucking feathers off the chickens.

2 Q. Plucking them off the pigeons; right?

3 A. Yeah.

4 Q. Yeah.

5 A. Chickens, birds.

6 Q. Yeah. All right. Where else; anywhere else?

7 A. Cooper Tools.

8 Q. How long were you there for?

9 A. Nine years.

10 Q. All right. What were you doing there?

11 A. When I first went there, I was a packer, and when I
12 left there, I was a machine op -- machine operator.

13 Q. Okay Anywhere else you have worked in Sumter County
14 besides the places you have mentioned already?

15 A. I think that's it.

16 Q. You mentioned earlier that you had a Certificate or
17 you are Home Health trained?

18 A. I did a little work of that, but I didn't like it and
19 I didn't continue with it.

20 Q. Okay. Where would you have done that?

21 A. Right here in Sumter.

22 Q. Is there a certain place you did that, though?

23 A. I went to different homes.

24 Q. Yeah, I'm asking ---

25 A. But I can't remember the name of the company; it's

1 been so many years ago.

2 Q. But you were working through a company?

3 A. Yes.

4 Q. And getting assigned to different homes ---

5 A. Yes.

6 Q. -- is what you were doing?

7 A. Right.

8 Q. Was it more than one company?

9 A. Just one company, but I can't remember the name of it.

10 Q. How long did you do that for?

11 A. For about six months.

12 Q. Okay. Were there any other places that you can recall
13 working in Sumter besides the places you have already
14 told me?

15 A. No.

16 Q. All right. And you told me a bunch of different jobs.
17 What was the reason for leaving most of those jobs?

18 A. Most of them?

19 Q. Yes, ma'am.

20 A. I was young and I just wanted to change jobs, and if
21 the other job was paying me more, just changing jobs
22 trying to make a living.

23 Q. Okay. And so, ---

24 A. And make more money.

25 Q. Sure. Have you ever been fired from a job -- I don't

1 mean being laid off because -- because they closed or
2 whatever else -- has anyone ever terminated you from
3 a job?

4 A. No.

5 Q. Never?

6 A. Never.

7 Q. Okay. Are you a member of any -- any church? Are you
8 a member of any church in Sumter County?

9 A. New Bethel Baptist out 15 South, but I hadn't been
10 there lately. But I am a member there.

11 Q. Okay. How long have you been a member there for?

12 A. All my life.

13 Q. All your life?

14 A. Yes.

15 Q. And is there any other churches in Sumter County that
16 you have attended regularly but may not have joined?

17 A. No.

18 Q. Did you have a home church growing up?

19 A. Yes, New Bethel Missionary Baptist.

20 Q. That was it?

21 A. Yes.

22 Q. Okay. I got you. To your knowledge, does your --
23 does your husband have a home church where he grew up?
24 I don't think I asked him that question. Did he ever
25 have a home church when he ---

1 A. He told me about a church in Mayesville, but I never
2 been to any of his churches before.

3 Q. Okay.

4 A. But he used to go to church when he was younger.

5 Q. Okay. Are you a member of, like, any sort of civic
6 organization, clubs, I mean, I will give you some
7 examples. Like, a sorority or ---

8 A. No.

9 Q. -- Civitan, Kiwanis, nothing like that?

10 A. No.

11 Q. Okay. What sort of things do you enjoy doing when you
12 have spare time; how do you spend your days?

13 A. I like to play bingo. I like to read. I like to walk
14 when I have time to try to get my health better. I
15 like to go fishing.

16 Q. Okay. Those things you still enjoy doing now?

17 A. That's what I like to do, but I don't get to fish like
18 I want to.

19 Q. Sure. I don't think anybody does.

20 A. Yeah.

21 Q. When is the last time you had a job or you worked?

22 A. The last time I had a job was when I worked at the
23 Sportsman in 1995.

24 Q. Okay. So, you haven't -- you haven't had -- you
25 haven't worked since 1995?

1 A. No.

2 Q. Okay. Are you on Disability or anything like that?

3 A. I'm getting retirement right now.

4 Q. You get retirement?

5 A. Yes.

6 Q. Where do you get retirement from?

7 A. Social Security.

8 Q. Okay. You are drawing Social Security already?

9 A. Yes.

10 Q. Okay. That is your only income as of right now?

11 A. My only income.

12 Q. Okay. How about your husband's income, does he have
13 any income?

14 A. He's getting the same thing, but we're not getting our
15 full benefits because we didn't have enough work
16 credits what we -- what retirement gives. We're not
17 getting the maximum amount.

18 Q. Yes, ma'am.

19 A. Because you have to have -- I guess you probably know
20 -- you have to have at least forty (40) work credits
21 within a ten year period to get your full amount of
22 Social Security.

23 Q. So, when did you start drawing Social Security?

24 A. Last -- I turned sixty-two (62) this year; so, I
25 started getting it this year.

1 Q. Yes, ma'am. How about your husband, do you remember
2 when he started getting it?

3 A. He turned sixty-two (62) two years ago I think it was;
4 so, he's got it about two years.

5 Q. Okay. Does he get Disability also or did he get
6 Disability at some point in time?

7 A. We -- we didn't -- it's -- I don't call that
8 Disability. We got SSI.

9 Q. Okay. Okay.

10 A. That's for people that don't have enough work credits
11 in. We didn't -- we didn't qualify for regular
12 Disability.

13 Q. Okay. And you said that you do suffer from PTSD and
14 anxiety?

15 A. Yes.

16 Q. Were you diagnosed with both those conditions around
17 the same time?

18 A. Yes.

19 Q. When would that have been?

20 A. Probably about eight years ago.

21 Q. About eight years ago?

22 A. Yes.

23 Q. Okay. And you mentioned you have a South Carolina
24 Driver's License and you gave me the number earlier.
25 Have you had any -- a License in any other state

1 besides South Carolina?

2 A. Just South Carolina.

3 Q. Okay. Has your License ever been suspended for any
4 reason?

5 A. Never.

6 Q. Never been suspended?

7 A. Never.

8 Q. Have you ever had a CDL or Commercial Driver's
9 License?

10 A. No.

11 Q. Okay. When do you think -- how long have you had a
12 Driver's License for?

13 A. About forty-four (44) years.

14 Q. Forty-four (44) years?

15 A. Yeah.

16 Q. All right. And again, please don't take offense to
17 these questions. He asked my client. I asked your
18 husband. I'm going -- I ask everybody these
19 questions.

20 A. Okay.

21 Q. Have you ever been convicted of any crime?

22 A. No.

23 Q. Okay. Have you ever been arrested for any crime?

24 A. I've been arrested one time. I was upset and I was
25 walking at night from the house to go to the store and

1 I didn't have my identification on me and the Sumter
2 County Police stopped me on the Old Manning Road, and
3 I was walking and they took me to jail because I
4 didn't have any identification to show them who I was.

5 Q. Who was that?

6 A. Some policeman. I can't remember his name, but the
7 next morning, they let me go.

8 Q. How long ago was that?

9 A. That was probably in 2004.

10 Q. Did they ever charge you with anything?

11 A. They didn't have nothing to charge me for.

12 Q. So, they let you go -- let you go the next day?

13 A. The next day. And he said he arrested me because I
14 didn't have any identification on me, and I was
15 walking at night.

16 Q. Did you do anything about it as far as did you
17 retaliate in Civil Court or anything?

18 A. No, I didn't; I didn't retaliate or do anything about
19 it.

20 Q. So, they let you go and that was it?

21 A. That was it.

22 Q. Okay. Do you remember the officer's name?

23 A. I can't remember, but I think he's the one that was in
24 an accident somewhere and got killed, the big heavy
25 one.

1 Q. Okay.

2 A. A few years ago.

3 Q. Mr. Nesbitt?

4 A. I believe so.

5 Q. Okay. That is the only time you have ever been
6 arrested, though, for anything?

7 A. Other than me and my husband have gotten in arguments
8 and when they come to see what's going on after I
9 called them and I'm the one that's doing all the
10 talking, and they've arrested me for something like
11 that one time.

12 Q. Do you remember when that would have been?

13 A. Probably in 2005.

14 Q. Okay. Did that happen more than one time?

15 A. One time.

16 Q. Just one time?

17 A. Uh-huh (affirmative response).

18 Q. Okay.

19 A. Yes.

20 Q. So, just -- just the '04 and '05 incidents that you
21 were telling me about is ---

22 A. Yes.

23 Q. -- the only time you have ever been arrested?

24 A. Yes.

25 Q. Okay. And over the last ten years, let's just say

1 since 2009, what does your driving record look like?

2 A. I have a good driver's record -- driving record.

3 Q. Do you have all your points on your License?

4 A. All my points for years.

5 Q. Okay. And so, I want to talk to you a little bit
6 about prior to -- we are here today because of an
7 incident that happened on July 24th, 2016; would you
8 agree with that date?

9 A. Yes.

10 Q. Do you remember that day?

11 A. Yes.

12 Q. Okay. And do you remember the events that led up to
13 that?

14 A. Yes.

15 Q. Do you have any reason to argue that it was on that
16 date that this happened?

17 A. Did we have any reason to argue?

18 Q. Any reason to argue that the incident we are here for
19 today happened ---

20 A. No. No.

21 Q. -- on July 24th, 2016?

22 A. No.

23 Q. Okay. And prior to that, had you ever been in a motor
24 vehicle collision yourself?

25 A. Yes, I've been in a motor vehicle collision.

1 Q. Okay. And how many have you been in?

2 A. My son and I -- I picked -- I gave my son a ride home
3 from Pilgrim's Pride; he was working and we were at
4 the light at Broad and Church Street and a lady and
5 her husband ran the light and hit us and total lossed
6 car, but we weren't really hurt.

7 Q. Okay.

8 A. And other than that, that's the only accident that I
9 remember.

10 Q. Prior to July 24th, 2016?

11 A. Yes. But we wasn't driving that car. I was driving
12 my older son's car.

13 Q. Okay. Had you ever -- have you ever brought a lawsuit
14 against anybody?

15 A. No.

16 Q. You never have brought one?

17 A. No.

18 Q. Has anyone ever brought one against you besides this
19 one?

20 A. No.

21 Q. Okay. How about since July 24th, 2016?

22 A. No.

23 Q. Have you been in any more wrecks since then?

24 A. No.

25 Q. Has anybody ever brought a lawsuit against you besides

1 this one?

2 A. No.

3 Q. Okay. And how about as far as what you know with your
4 husband, do you remember when his License was
5 suspended?

6 A. You mean the first time or ---

7 Q. What do you know about your husband's License
8 suspensions?

9 A. The first one probably was around about 2004 or '05,
10 and the second one when he had this last wreck, it was
11 already suspended.

12 Q. Okay. So, you say "this last wreck," the one we are
13 here for today?

14 A. Yes.

15 Q. July 24th, 2016?

16 A. Yes.

17 Q. How long had it been suspended when that occurred?
18 How long had his License been suspended when that
19 occurred?

20 A. Probably since about 2004, something like that.

21 Q. So, well over ten years?

22 A. Yes.

23 Q. Okay. Are you pretty confident about that?

24 A. I'm not sure about the time. I just know he had --
25 had the suspension. I don't have the correct date.

1 Q. Okay. And ---

2 A. I can't remember the correct date.

3 Q. In your household, since you have been married to
4 Richard Prothro, have you ever had more than one car
5 in the household?

6 A. We had just that one car and then my son gave me and
7 my younger son his used car together, but we didn't
8 drive it long because that's when we had the accident
9 on Broad and Church.

10 Q. Okay.

11 A. And I didn't have -- I didn't even have it for six
12 months and it got total lossed, but other than that,
13 we just had one car in the house.

14 Q. Okay. And so, the -- the collision that happened that
15 we are here for today, you agree it was the Ford
16 Contour that was involved?

17 A. Yes.

18 Q. How long had you had -- how long had you all had that
19 car prior to July 24th, 2016?

20 A. Probably since 2013.

21 Q. 2013?

22 A. Yes.

23 Q. Okay. You bought that car?

24 A. Yes.

25 Q. Was it in your name?

1 A. Yes.

2 Q. Okay. And that was around 2013?

3 A. Yes.

4 Q. So, when you got that Ford Contour, would Mr.
5 Prothro's License have been suspended at that time?

6 A. Yes.

7 Q. Did he ever get it reinstated since then?

8 A. No.

9 Q. Okay. Do you have any independent knowledge of why
10 Mr. Prothro's License was suspended?

11 A. For DUI.

12 Q. Okay. And how many DUIs did -- are you aware of?

13 A. Only two.

14 Q. Two. Do you know when those would have been?

15 A. The first one he ever got I don't think we were
16 together. But the last one, like I said, was probably
17 in about 2004 or '05.

18 Q. Okay. So, when -- when the second one happened, you
19 knew about it?

20 A. The second DUI?

21 Q. Yes, ma'am.

22 A. That's the one that I know about.

23 Q. When did you find out about the first, that he had the
24 first one?

25 A. The first one I don't think I knew him.

- 1 Q. But did you find out about it at some point in time?
- 2 A. He told me about it.
- 3 Q. When would that have been?
- 4 A. Probably -- probably something like 2000, I guess.
- 5 Q. Around 2000, he told you about it?
- 6 A. Yes.
- 7 Q. Okay. So, you knew about the first one before the
- 8 second one even happened?
- 9 A. Yes.
- 10 Q. Okay. And is there anything else that you are aware
- 11 of about his driving record prior to July 24th, 2016?
- 12 A. No.
- 13 Q. You knew about the DUIs ---
- 14 A. Right.
- 15 Q. -- and his License was suspended?
- 16 A. Right.
- 17 Q. Okay. And so, ---
- 18 A. But I heard you ask him about one in -- a second one
- 19 in 2015. He -- he didn't have but one in 2015. I
- 20 don't know where that came from.
- 21 Q. That was Driving Under Suspension; correct?
- 22 A. Yeah, but he only had -- he didn't have two in 2015.
- 23 Q. And perhaps I should have asked him this question,
- 24 too. There's two Richard Prothro's; right?
- 25 A. Yes, his son is ---

1 Q. His son?

2 A. Yes. And they -- neither one of them use Senior or
3 Junior, and that's how that probably got mixed up
4 because he did some time for his son before for child
5 support.

6 Q. Are you aware of his son ever getting a Driving Under
7 Suspension charge?

8 A. I don't know anything about his driving record.

9 Q. You wouldn't know one way or the other?

10 A. No, I know him, but I don't know anything about his
11 driving record.

12 Q. Okay. I understand. And so, during -- during the
13 time that you had that 1999 Ford Contour; correct?

14 A. Yes.

15 Q. All right. You said you think you got it in 2013?

16 A. Uh-huh (affirmative response).

17 Q. That is a yes?

18 A. Yes.

19 Q. So -- so, at least three years prior to this
20 collision?

21 A. Yes.

22 Q. How many times do you think Mr. Prothro had driven
23 that vehicle prior to July 24th, 2016?

24 A. I can't tell you the exact amount of time, but he
25 never did just drive it like I did. Just every now

1 and then, he would take the keys and want to drive it.

2 And I can't really say how many times.

3 Q. Okay.

4 A. But he wasn't driving it every day.

5 Q. Were you aware that he was driving the vehicle?

6 A. When he was driving it, I was aware of it.

7 Q. Okay. Were you -- were you home most of the time when
8 he was doing that?

9 A. Not all the time.

10 Q. How would you find out about it?

11 A. Because if the car's gone, I know that he have it.

12 Q. Okay. How would you know he had it and not somebody
13 else?

14 A. Because no one else come in our house and get a key
15 but him.

16 Q. Okay. So, and just -- just to be clear on this. So,
17 had you ever reported that vehicle stolen at any point
18 in time?

19 A. No, I haven't.

20 Q. Okay. You have never reported that 1999 Ford Contour
21 as being stolen?

22 A. No, I haven't.

23 Q. Okay. And did you ever give -- did you ever give Mr.
24 Prothro permission to drive the vehicle?

25 A. No.

1 Q. You never gave Mr. Prothro ---

2 A. No.

3 Q. -- permission?

4 A. No.

5 Q. Did he ever ask you permission to drive it?

6 A. Well, if he asked me and I tell him no, he would still
7 drive it.

8 Q. Okay. What did you do to prevent him from driving the
9 vehicle?

10 A. Try to take the keys from him.

11 Q. Okay. How many sets of keys were there?

12 A. There were two sets of keys because, like he told you,
13 we needed another key so if the other key got locked
14 up in the car -- we just had one -- two ignition keys.

15 Q. Who was -- who -- who kept up with the keys?

16 A. I did.

17 Q. You did. Where did you usually keep the keys?

18 A. Usually on the dresser or on the table, just not
19 hidden some place in the house.

20 Q. Okay. Was that -- during what period of time was that
21 the case? Were you -- were you in the habit of
22 keeping the keys on the counter you said in the
23 bedroom?

24 A. Yes.

25 Q. How -- how long had you been keeping them there for?

1 A. Forever.

2 Q. How long is forever?

3 A. Well, most of the time. Sometimes I have them in my
4 pocketbook.

5 Q. Okay. So, from the time that Mr. Prothro got his
6 License suspended until July 24th, 2016, whether it
7 was the Contour or another vehicle, how many times did
8 -- did he drive your vehicle?

9 A. Probably about twice or two or three times a month.

10 Q. So, you wouldn't argue with what he said earlier?

11 A. No.

12 Q. Okay. And how many times did -- did you know about it
13 during that period of time?

14 A. I knew about it most of the time.

15 Q. Most of the time?

16 A. Yes.

17 Q. Okay. And so, did you ever take steps to -- to hide
18 the keys or to keep the keys from him?

19 A. No.

20 Q. You never did?

21 A. No.

22 Q. So, going back to July 24th, 2016, do you agree that
23 he was driving the vehicle that day?

24 A. Yes.

25 Q. All right. And when is -- when is the previous time

1 he drove the vehicle? When is the last time he drove
2 it prior to that date that you knew about?

3 A. About two weeks.

4 Q. All right. And I'm going to go back, the same
5 question I asked him earlier.

6 A. Okay.

7 Q. Two weeks earlier, then how about prior to that?

8 A. Probably a week.

9 Q. Okay. How about before that?

10 A. Probably maybe three weeks.

11 Q. And again, your testimony is, is that the period of
12 time he was suspended until the time of this wreck,
13 whether it was the Contour or another household
14 vehicle, he drove two or three times a month?

15 A. Yes.

16 Q. And you knew about it most of the time?

17 A. Yes.

18 Q. Okay. And so, where were you the morning of July
19 24th, 2016?

20 A. I was at home that morning and I tried to get him not
21 to drive, but he did anyway.

22 Q. Okay. And so, I want to ask some specific questions
23 about that. He has already talked to me about what
24 happened. What time did you get up that morning?

25 A. Probably about -- about the same time he did, about

1 6:30.

2 Q. Had there been any sort of argument the prior night or
3 anything like that?

4 A. Yeah, we had words.

5 Q. Do you recall what that was about?

6 A. I was telling him that he was being mean toward my --
7 my son, which is his stepson, stuff that had happened
8 in the past; we were just bringing up old
9 conversations, and he got angry about it and just told
10 me -- no, he wasn't mean, he was just trying to make
11 my son behave.

12 Q. Okay.

13 A. But my son is grown now. My son wasn't there at that
14 time and that wasn't happening right then. We were
15 just talking about past incidents in our relationship.

16 Q. And that was the previous -- previous night, July
17 23rd?

18 A. And then -- yes, and then it started back over -- over
19 the same stuff that we had been arguing about before.

20 Q. Okay. And so, that evening of the 23rd, the night
21 before this happened, were you all at home that night?

22 A. Yes.

23 Q. Just you and him or anybody else?

24 A. Just he and I.

25 Q. Okay. And the day before, which is July 23rd, what

1 were -- what were -- where had you all been that day?

2 A. Mostly at home and maybe went to the store or
3 something and came back. We were home.

4 Q. Okay.

5 A. We were home most of the time.

6 Q. Did you -- did you see or know of Mr. Prothro drinking
7 any alcohol that night?

8 A. Yes.

9 Q. The 23rd?

10 A. Yes.

11 Q. What did you know about?

12 A. What did you say?

13 Q. What did you know about that?

14 A. What did I know about what?

15 Q. As far as what he had to drink the night before.

16 A. He -- like -- he's telling you the truth about the
17 pint. He had dranked out of the pint that night, and
18 then the next morning, what he had left, he drank the
19 rest of it.

20 Q. You knew about that, too?

21 A. Yes.

22 Q. Do you know what time that was?

23 A. Probably about 9:00, 10:00 in the morning.

24 Q. 9:00 or 10:00 in the morning?

25 A. When he left.

1 Q. Okay. What time do you think he drank the pint that
2 morning?

3 A. Probably about anywhere around the time we got up
4 6:30, 7:30.

5 Q. Okay. And you were awake then, too; so you know about
6 it?

7 A. Yes.

8 Q. Okay. And you said you tried to stop him that
9 morning?

10 A. Yes.

11 Q. Tell me where did he go -- where did he go to get the
12 keys that morning?

13 A. Out of the house.

14 Q. Where in the house?

15 A. On the dresser.

16 Q. The same place they always were?

17 A. Yes.

18 Q. Okay. And ---

19 A. Then I followed him outside and tried to get them back
20 from him.

21 Q. Okay.

22 A. But he didn't give them to me and he just took off.

23 Q. Why were you trying to stop him?

24 A. Because I didn't want him to drive the car drinking,
25 and I know that I didn't have insurance on there for

1 him to drive it.

2 Q. You knew that?

3 A. Yes.

4 Q. Did he know you didn't have insurance on there for him
5 to drive?

6 A. Yes, he did.

7 Q. How long had he known that for?

8 A. He's always known that.

9 Q. Okay. But he continued to drive it?

10 A. Yes.

11 Q. And you continued to -- well, you realized that he
12 continued to drive it?

13 A. Yes.

14 Q. Okay. And did you do anything else to stop him
15 besides just tell him to stop that morning?

16 A. No.

17 Q. You didn't report the vehicle stolen, didn't call any
18 of your friends?

19 A. No.

20 Q. Did you call anybody about ---

21 A. I didn't call anybody.

22 Q. Okay. Did anybody see you, maybe the neighbors in the
23 duplex or anybody else, did anybody see you trying to
24 stop him from driving that morning?

25 A. No.

1 Q. Okay. And so, what is the next thing that you found
2 out about that day?

3 A. The next thing that I found out, the cops came and
4 knocked on the door and they asked me if I was Gloria
5 Oliver, and I told them "No, I'm Sharon Prothro." So,
6 he gave me my registration card and everything that he
7 got out the car before they -- after they arrested
8 Richard, and he asked me did I know her and I told him
9 that I knew of her and he asked me did I know where
10 she was, and I said "No." And he said, "Well, she
11 just committed a crime." And I said, "What?" He
12 said, "Well, she was in the car in a wreck with
13 Richard and she ran away from the scene of the
14 accident."

15 Q. So, someone told you that Gloria Oliver committed a
16 crime?

17 A. The police that -- the policeman that came and brought
18 me my stuff out the car.

19 Q. Can you recall who told you that?

20 A. I don't know his name. But Richard has his papers at
21 the house, his tickets; his name is on the tickets.

22 Q. Okay. Was he -- did you see his vehicle he was
23 driving in?

24 A. He was driving a -- a city cop car.

25 Q. A city cop car?

1 A. Yeah.

2 Q. White car with blue and maybe black on it or something

3 ---

4 A. Black and gold stripe.

5 Q. Black and gold?

6 A. Yes.

7 Q. Was he a Sheriff's deputy or was he a ---

8 A. Sheriff deputy.

9 Q. Okay. You can't recall his name?

10 A. No, I can't recall his name.

11 Q. Can you describe how he looked or anything like that?

12 A. Small built, tall, slim.

13 Q. Do you remember if he was white, African-American ---

14 A. White.

15 Q. White?

16 A. Yes.

17 Q. Do you care to guess his age?

18 A. I don't -- I can't guess his age. I know he's much
19 younger than I am.

20 Q. Do you know if he had any kind of facial hair or
21 anything like that?

22 A. I can't remember that.

23 Q. Okay. So, he told you that someone had committed a
24 crime?

25 A. Yes, that she ran away from the scene of an accident.

1 And he said, "No," -- he was looking me all over and
2 he said, "no, that's not you because she was bigger
3 than you and she had a rag on her head," and that was
4 how that went.

5 Q. Did he say anything about your husband committing a
6 crime that day or not?

7 A. Yeah, he told me that Richard was locked up.

8 Q. Okay.

9 A. And what happened -- that he was in the wreck at the
10 Neighborhood Wal-Mart and what all happened. And he
11 asked me if I loved Richard, and I told him "Yeah."
12 He said, "Well, the next time, you make sure you keep
13 the keys away from him." And he gave me my stuff and
14 went on.

15 Q. Okay. And is that the first that you heard about any
16 of this happening?

17 A. Yes.

18 Q. So, nobody called you from the scene or anything like
19 that?

20 A. No.

21 Q. Did you have a cell phone at the time?

22 A. Yes, but I don't know anybody that was at that scene
23 that know me and have my number.

24 Q. So, the first you heard about this was when the
25 officer came to your house?

1 A. Yes.

2 Q. Do you remember about what time that would have been?

3 A. It was that Sunday afternoon, I guess probably about
4 1:30, 2:00 o'clock.

5 Q. Okay. And what did you do; did you go down to the
6 jail or anything like that?

7 A. Not that day. I went down the next morning and I went
8 to the little Court in front of the judge and picked
9 Richard up. After they let him go, I went and picked
10 Richard up. But I caught a ride with a family member
11 and picked him up.

12 Q. Who was that family member you rode with; do you
13 remember?

14 A. I don't -- it was a family member's boyfriend. She
15 was working and the guy picked me up, but I don't know
16 his real name. We just call him by nickname.

17 Q. What -- what is his nickname?

18 A. Fats.

19 Q. Fats?

20 A. Yes.

21 Q. Okay. All right. And did -- what -- did you ever see
22 that Ford Contour?

23 A. What?

24 Q. Did you ever see that Ford Contour after the collision
25 happened?

1 A. Yes, I saw it because it was impounded, and after a
2 couple days, Richard and I went and got it out of
3 impound and -- and I drove it for a while after --
4 after it got back home.

5 Q. Did anybody from the insurance company ever look --
6 come and look at the vehicle?

7 A. I went to the insurance company and they saw me
8 driving it. I went there and I reported the accident.

9 Q. Okay. To your knowledge, did anybody from the
10 insurance company or anybody else take photographs of
11 the vehicle?

12 A. I don't remember.

13 Q. You don't remember any pictures ever being taken of
14 that Ford Contour?

15 A. No.

16 Q. Did you take any pictures of it?

17 A. I did, but I don't have them any more. They were in
18 an old cell phone that I don't have any more.

19 Q. Okay. So they are gone now?

20 A. Yes.

21 Q. Did anybody else take pictures of it, to your
22 knowledge?

23 A. No.

24 Q. Okay. And do you have any understanding or has
25 anybody told you what all was damaged in this incident

1 besides your vehicle?

2 A. Yes, I was told what was damaged. But there weren't --
3 there weren't any major damages.

4 Q. What were you told?

5 A. I was told that there were -- there were just a couple
6 dents on whatever vehicles that he hit.

7 Q. A couple dents?

8 A. Yes.

9 Q. Did they tell you there was any damage to anything
10 that was in the Wal-Mart parking lot?

11 A. Yes, the little small palm trees was pushed over. I
12 been there since that happened the same week and I saw
13 that with my -- for myself.

14 Q. So, you not only got pictures of the Ford Contour --
15 I mean, you not only got pictures of it, you drove it
16 also for a period of time?

17 A. I drove it for a good period of time.

18 Q. Where was the damage to that vehicle after this
19 incident?

20 A. It was on the -- the rear bumper was pulled off and it
21 might have had a small dent on the side, but it was
22 drivable.

23 Q. Okay. Did -- did anybody from the insurance company
24 ever compensate you for that vehicle?

25 A. No.

1 Q. Did you ever get any kind of compensation at all for
2 it?

3 A. No.

4 Q. To your knowledge, was anybody -- was there any
5 compensation to the owners of the other vehicles who
6 were damaged?

7 A. I don't know.

8 Q. You don't know?

9 A. No.

10 Q. You don't if your insurance paid on those claims or
11 not?

12 A. No, I don't.

13 Q. To your knowledge, was any of the property damage at
14 Wal-Mart -- to your knowledge, did anybody at Wal-Mart
15 ever receive any compensation for property damage?

16 A. I don't know.

17 Q. You don't know?

18 A. No.

19 Q. You are not saying they did or they didn't, you just
20 don't know?

21 A. I just don't know.

22 Q. Okay. And so, did you have a chance to talk to Mr.
23 Prothro about this?

24 A. About what?

25 Q. About what happened on July 24th, 2016.

1 A. Yes, he talked to me about it.

2 Q. What did he tell -- what did he tell you?

3 A. He told me just what happened. He told me that he
4 gave them a ride, and -- and when he got ready to back
5 out, that some kind of way, his foot was mashed -- he
6 was mashing the gas and the -- and the brakes at the
7 same time.

8 Q. Okay. And ---

9 A. And he was backing up, and that's how it happened.

10 Q. All right. And so, Mr. Cummings, I think the first
11 individual that he picked up, do you know Mr. Cummings
12 at all?

13 A. I've met him before, but I'm not an associate of his.
14 I know that he and Richard know each other real good,
15 but I'm not an associate of his.

16 Q. If he walked right in here right now and shook your
17 hand, would you know who you were talking to?

18 A. Yeah, I would speak to him because I know he's a
19 friend of Richard's.

20 Q. Okay. Do you think -- do you think Mr. Cummings knows
21 about the situation with the insurance not covering
22 ---

23 A. I don't know what he knows.

24 Q. You don't know that?

25 A. No, I don't see him at all.

1 Q. Okay. How about my client, Gloria Oliver, do you know

2 ---

3 A. I don't have anything to do with her either. I don't
4 know what she knows.

5 Q. Do you know her at all?

6 A. I know of her. I know that Richard knew them before
7 he knew me. I don't know anything personal about her.

8 Q. Okay. If you saw her today, would you recognize her?

9 A. Yes.

10 Q. Okay. Have you talked to her at all since July 24th,
11 2016?

12 A. Only one time she saw me at a gas station on Broad
13 Street and she asked me what was the name of
14 insurance company a long time after they had the wreck
15 and I told her, and that's it. I told her who my
16 insurance company was and she said "Thank you", and
17 she went on her way and -- and I went on mine.

18 Q. Okay. And do you -- do you have any knowledge that --
19 that Ms. Oliver would have known that the vehicle that
20 she was riding in on July 24th, 2016 was not insured?

21 A. She have no way to know that because I don't know her
22 like that, and we don't socialize.

23 Q. Okay. So, ---

24 A. She don't know -- she see me, she don't know me, and
25 I see her, I don't know her. We don't -- we've never

1 been around each other before.

2 Q. So, you -- you have never told her that the ---

3 A. I've never told her anything other than when she came
4 up to my car. Richard was in there. And she asked me
5 who did I have insurance with, and I told her.

6 Q. Has -- has any -- has anybody else told you that they
7 have let Ms. Oliver know that Mr. Prothro may not be
8 an insured driver on that vehicle?

9 A. No.

10 Q. You are not aware of that?

11 A. No.

12 Q. Who all would know that?

13 A. No one is supposed to know that but me and Richard.

14 Q. Okay.

15 A. And he would -- I don't think he went and told anybody
16 anything about any insurance, and I know I don't.

17 Q. And the folks in the insurance company office would
18 know about it, too; right?

19 A. Yes.

20 Q. Okay. And so, did you ever have to give a statement
21 abut this to the insurance company?

22 A. I don't think so.

23 Q. And what I mean by that is, did anybody from an
24 insurance company ever ask you to write anything out
25 about what you knew?

1 A. No.

2 Q. Okay. Did anybody from the insurance call you and
3 interview you about this?

4 A. They have called me and asked me about the accident
5 and asked me if I was aware of it and everything, and
6 I have answered their questions.

7 Q. Okay. All right. And so, let me ask you this. Do
8 you -- do you -- do you think on July 24th, 2016 --
9 well, I'll scratch that question. Do you think -- do
10 you think folks that don't have valid insurance should
11 be driving?

12 A. No.

13 Q. Okay. Do you think folks who are under the influence
14 of alcohol should be driving?

15 A. No.

16 Q. Do you think -- did Mr. -- do you -- do you believe,
17 based on your observations, that Mr. Prothro was under
18 the influence of alcohol when he left your house on
19 July 24th, 2016?

20 A. Yes.

21 Q. Do you think you should have done more to stop him
22 that morning?

23 A. Yes.

24 Q. Okay. To your knowledge, has Mr. Prothro driven since
25 July 24th, 2016?

- 1 A. No.
- 2 Q. He never has driven since ---
- 3 A. No.
- 4 Q. Okay. Do you think you would know about it?
- 5 A. I -- yes, I would know about it.
- 6 Q. All right. And you -- you said that you got -- you
- 7 drove the Ford Contour for a little period of time
- 8 after this happened?
- 9 A. Yes, I drove it for a little while after it happened.
- 10 Q. How long do you think you drove it for?
- 11 A. Probably about July -- probably until October.
- 12 Q. Until October of that year?
- 13 A. Yes.
- 14 Q. Were you able to get a new vehicle after that?
- 15 A. That's when I got another vehicle.
- 16 Q. Okay. Are you still driving that ---
- 17 A. Yes, I'm still the same vehicle I got.
- 18 Q. Okay. And to your knowledge, Mr. Prothro hasn't tried
- 19 -- hasn't tried to drive that vehicle?
- 20 A. No, he hasn't because he don't want to get me in any
- 21 trouble and he don't need to be in any.
- 22 Q. Okay. Do you keep the keys in a different place now
- 23 than you used to?
- 24 A. He don't bother -- he don't try to bother the keys.
- 25 I have them in my pocketbook, and he will not drive.

1 Q. Okay. So, you don't keep them on that -- on that same
2 counter any more?

3 A. I don't hide them, but he does not -- he don't mess
4 with the keys.

5 Q. Okay. All right. And so, I want to show you this
6 same Exhibit that we showed to everybody else today.

7 A. Okay.

8 Q. I can mark this again. It is Plaintiff's Exhibit
9 Number One to this deposition.

10 A. Okay.

11 COPY OF NAMED DRIVER EXCLUSION MARKED
12 PLAINTIFF'S EXHIBIT NUMBER ONE.

13 Q. All right. So, I will hand you that, Ms. Prothro. Do
14 you recall signing that?

15 A. Yes, I do.

16 Q. Is -- is that your signature on there?

17 A. That's my signature, and I remember signing it.

18 Q. Okay. What date was that?

19 A. April the 2nd of 2009.

20 Q. Would you disagree with that date?

21 A. No, I won't.

22 Q. Okay. And have you signed another one of those since
23 April -- April 2nd, 2009?

24 A. I probably have because I've had insurance with them
25 for twelve (12) years.

1 Q. Okay. And when you signed -- when you signed this
2 form on April 2nd, 2009, was that the Ford Contour you
3 had then or was that a different car; do you recall?

4 A. Probably -- that was the Ford Contour.

5 Q. Okay. And so, do you think you have specifically
6 signed any more of these since 2009 or you think you
7 may have?

8 A. I can't remember.

9 Q. And for identification purposes, this is a Named
10 Driver Exclusion Election. Who was sitting there when
11 you signed this?

12 A. Richard and I and the insurance agent.

13 Q. Do you know who that would have been?

14 A. Probably -- as good as I know their names, I can't
15 remember them now.

16 Q. So, this was over ten years ago; right?

17 A. Yeah. I -- I know her name, but I can't remember it.

18 Q. Where is her office?

19 A. On Wesmark Boulevard.

20 Q. Okay. So, it is somebody that works for the
21 Progressive Agency over there?

22 A. Yeah, it's right next door to -- to the Enterprise
23 place.

24 Q. Okay. Do you still maintain insurance with
25 Progressive ---

1 A. Yes.

2 Q. -- to this day?

3 A. Yes.

4 Q. Under this same policy?

5 A. Yes.

6 Q. All right. And so, when you signed this, you think
7 Mr. Prothro would have been sitting there and a woman
8 from the insurance agency?

9 A. Yes.

10 Q. Did she explain this to you?

11 A. She explained it to me.

12 Q. What did she tell you you were signing?

13 A. I know that Richard was an excluded driver because he
14 don't have a -- he has a suspended License. And she
15 did explain that to me.

16 Q. Was that the first time that was explained to you or
17 was it ever done before April 2nd, 2009?

18 A. She's always explained it to me.

19 Q. Okay. And to him, too?

20 A. He don't always be with me, but he understand that
21 he's excluded.

22 Q. Okay. And why -- why was that -- why was he -- why
23 was he excluded from this policy?

24 A. Because of a suspended Driver's License and the DUI
25 charges.

1 Q. Okay. Since this was signed on April the 2nd, 2009 in
2 front of you and Mr. or in front of Mr. Prothro, how
3 many times did he drive between April 2nd, 2009 and
4 July 24th, 2016?

5 A. I can guess, but I could never tell you how many times
6 he did that.

7 Q. What would your guess be?

8 A. Probably about three or four times a month.

9 Q. Okay. The same numbers that you heard earlier?

10 A. Yeah. Well, I know that's the truth, yeah.

11 Q. You don't disagree with any of that?

12 A. I don't -- I don't disagree with it.

13 Q. And of that number between April 2nd, 2009 and July
14 24th, 2016, how many of those times did you know about
15 it?

16 A. I knew about it most of -- most of the time.

17 Q. Okay. All right. And are you -- are you aware -- are
18 you aware of a claim that has been filed against
19 Progressive on behalf of my client, Ms. Oliver?

20 A. Yes.

21 Q. You are?

22 A. I've been given notices about it ever since it
23 happened.

24 Q. By your insurance company?

25 A. No, by -- from you.

1 Q. Okay. From my office?

2 A. From your office.

3 Q. Okay. And so, again, I don't want you to tell me
4 anything that you and your attorney talk about; okay?

5 A. I won't.

6 Q. That's very important that you don't.

7 A. I won't.

8 Q. But as far as your insurance company, has anyone ever
9 told you that Ms. -- Ms. Oliver has offered to resolve
10 this case inside of your coverage?

11 A. No, no one have ever told me that.

12 Q. Okay. And has anyone ever told you that -- do you
13 understand the difference between liability coverage
14 and uninsured motorist coverage?

15 A. Yes.

16 Q. You do understand the difference?

17 A. Yes.

18 Q. What is your understanding is the difference between
19 those two?

20 A. Liability is just to fix another person's car, but
21 then if I'm in -- if I'm at fault and I do something
22 wrong, they don't cover it.

23 Q. Okay.

24 A. For my -- for my vehicle.

25 Q. Let me ask you this question. Are you -- have you

1 been advised by your insurance company -- I'm not
2 asking about your attorney; okay -- have you -- have
3 you been advised by your insurance company that prior
4 to filing a lawsuit, that Ms. Oliver offered to settle
5 within your policy limits ---

6 A. No.

7 Q. -- from your liability coverage?

8 A. No.

9 Q. And they rejected it?

10 A. No, no one told me that.

11 Q. No one told you that. Has anyone ever told you that
12 Ms. Oliver also offered to settle within -- within the
13 limits of your insurance coverage on your uninsured
14 motorist coverage?

15 A. No. No one told me that.

16 Q. Okay. All right.

17 MR. McELVEEN: And I will mark this
18 as Plaintiff's Exhibit Number Two. I'm
19 going to -- wait one second.

20 MR. CRUDUP: What are you looking for?

21 MR. MCELVEEN: Yeah, it's a letter from
22 Progressive. Actually, I can give you a copy
23 of it if you want a copy of it.

24 MR. CRUDUP: No, that's okay.

25 MR. MCELVEEN: I've got two copies if you

1 want it.

2 MS. CAIELLO: That's fine.

3 MR. MCELVEEN: Mark that as Plaintiff's
4 Exhibit Number Two.

5 COPY OF LETTER FROM DANIELLE GAMACHE

6 MARKED PLAINTIFF'S EXHIBIT NUMBER TWO.

7 Q. Ms. Prothro, this is a letter from an adjuster at
8 Progressive named Danielle Gamache I believe that
9 says, "I was unable to find valid coverage for this
10 incident and we won't be able to pay your claim."
11 Have you ever seen this letter before; has anybody
12 ever showed you that letter before?

13 A. I can't remember.

14 Q. Did -- did you know that within about two months of
15 this -- this incident that happened on July 24th, 2016
16 -- did you know that Progressive had denied my
17 client's liability coverage?

18 A. No, I didn't know that.

19 Q. No one told you that?

20 A. No.

21 Q. Okay. That's Number Two.

22 MR. MCELVEEN: Mark this as Plaintiff's
23 Exhibit Number Three.

24 COPY OF LETTER FROM BRYAN LAW FIRM TO
25 DANIELLE GAMACHE DATED 1-24-17 MARKED

PLAINTIFF'S EXHIBIT NUMBER THREE.

Q. Ms. Prothro, this is Plaintiff's Exhibit Number Three. It has been marked for identification purposes. It is a letter sent to the same adjuster, Ms. Gamache, I believe with Progressive Claims. And this letter again acknowledges Progressive's position to deny the claim. I will just ask you to look at this letter and ask you if you have ever seen this.

MR. CRUDUP: You're saying if she has ever seen it?

MR. MCELVEEN: If she has ever seen the letter.

Q. Have you ever seen this letter?

A. No.

Q. Has anybody ever told you about this letter before?

A. No.

Q. Okay. And you testified earlier that you -- you never reported your -- you never reported that Ford Contour as stolen?

A. No.

Q. Never ever?

A. Never.

Q. Okay. And did -- did anyone ever tell you from Progressive that we had -- we had requested a letter from Progressive confirming their denial of the claim

1 as well as grounds on which Progressive denies the
2 claim for the liability insurance?

3 A. No.

4 Q. They never told you that either?

5 A. No.

6 Q. Nobody at Progressive ever told you that?

7 A. No.

8 Q. Okay. All right. The next one I will hand you is --
9 this -- all right.

10 MR. McELVEEN: This is Plaintiff's
11 Exhibit Number Four, I believe.

12 COPY OF LETTER FROM DANIELLE GAMACHE TO
13 BRYAN LAW FIRM MARKED PLAINTIFF'S EXHIBIT
14 NUMBER FOUR.

15 MR. McELVEEN: Number Four. Thank you
16 ma'am.

17 Q. I'm going to hand you this. This is marked
18 Plaintiff's Exhibit Number Four. I think you will see
19 that it is a February 6th, 2017 letter from
20 Progressive. Take a look at that. Have you ever seen
21 that or did anyone ever tell you about that letter?

22 A. Yes, I kind of remember this.

23 Q. Okay. And that letter, I think, says that -- you do
24 remember this letter?

25 A. Uh-huh (affirmative response).

1 Q. Someone showed this to you?

2 A. I think I got one in the mail. No one showed --
3 showed it to me. I think I was mailed something like
4 this.

5 Q. You got a copy of that?

6 A. I don't know where it is.

7 Q. Okay. You can read along with me for a second.

8 A. Okay.

9 Q. It says, "When our insured, Sharon Prothro, purchased
10 her policy on April 2nd, 2009, she decided to exclude
11 Richard Prothro from the policy." Would you agree
12 with that?

13 A. Yes.

14 Q. Was that your decision or was that the insurance
15 company's decision?

16 A. Mines.

17 Q. It was your decision. Why did you make that decision?

18 A. Well, I had to make that decision because the
19 insurance company would automatically exclude him
20 because he don't have a Driver's -- he's -- he's under
21 suspension and have the DUI charges.

22 Q. Okay. All right. All right. So, following that
23 letter we marked as Number Four, this is the last one
24 I think I'm going to ask you about.

25 A. Okay.

1 Q. Yes, it is.

2 MR. McELVEEN: I will mark this as
3 Plaintiff's Exhibit Number Five, and this
4 should be the last one.

5 COPY OF LETTER DATED 1-8-18 TO
6 DANIELLE GAMACHE FROM BRYAN LAW FIRM
7 MARKED PLAINTIFF'S EXHIBIT NUMBER FIVE.

8 Q. This is the last one I've got to show to you, I
9 believe.

10 A. Okay.

11 Q. Ms. Prothro, this is Plaintiff's Exhibit Number Five.
12 This is a letter from my office dated January 8th,
13 2018. Have you ever seen that letter or has anyone
14 ever told you about that letter?

15 A. Not exactly like this, no.

16 Q. It is a demand for uninsured -- uninsured motorist
17 benefits ---

18 A. No.

19 Q. -- other than liability. You have never seen that?

20 A. No.

21 Q. No one ever shared the contents of this letter with
22 you?

23 A. I don't remember that letter.

24 Q. From the insurance company?

25 A. No.

1 Q. Okay. All right. And so, again, you -- you are
2 unaware of any offers that have been made on behalf of
3 Ms. Oliver ---

4 A. Yes, I'm -- I'm unaware of that.

5 Q. -- in exchange for the coverage in your policy?

6 A. I don't know anything about that.

7 Q. Okay. And do you -- do you understand that
8 Progressive Insurance Company, do you understand that
9 we are here right now because my client brought --
10 brought a claim -- brought a lawsuit against you and
11 against your husband? You understand that; correct?

12 A. Yes, I understand it, but I don't.

13 Q. Okay. Do -- do you -- are you aware of the fact that
14 Progressive Insurance Company also brought a separate
15 lawsuit against you and your husband and my client,
16 Ms. Oliver?

17 A. No.

18 Q. You are not aware of that?

19 A. No.

20 Q. Do you know what that is about or anything like that?

21 A. No.

22 Q. Okay. Do you understand on the first lawsuit that we
23 are here for right now that my client has brought
24 against you and against Mr. Prothro, do you understand
25 that if my client gets a verdict and Progressive's

1 coverage is not available, then that verdict will be
2 a judgment against you and/or your husband?

3 A. Uh-huh (affirmative response). But can I ask you one
4 thing?

5 Q. It depends.

6 A. I mean, we don't have anything. Where is it coming
7 from?

8 Q. That is something you need to talk to your attorney
9 about. But -- but you understand in the event that
10 there is no insurance coverage here, if my client got
11 a verdict, ---

12 A. Right.

13 Q. -- that could be -- that could end up being a judgment
14 against you and/or your husband?

15 A. Uh-huh (affirmative response). Well, we don't have
16 any -- any assets; so, I don't know where it would
17 come from. That's what I'm trying to tell you.

18 Q. And again, I do not want to know what you and your --
19 what you and your lawyer have talked about.

20 A. I haven't talked to an lawyer about this.

21 Q. Well, I don't need to know that.

22 A. Okay.

23 Q. I want to know, has anybody from Progressive Insurance

24 ---

25 A. No.

1 Q. -- walked you through that?

2 A. No.

3 Q. They have not?

4 A. No.

5 Q. Okay. Now, based on your understanding of what you
6 know about this collision that happened on July 24th,
7 2016, do you have any opinions about what caused it?

8 A. What caused it?

9 Q. Yes, ma'am.

10 A. Richard caused it. He -- I mean, what he did cause
11 it; I didn't have anything to do with it.

12 Q. Okay.

13 A. And I'm not blaming him; you know, you have the
14 evidence, the police got the records, they know what
15 he did.

16 Q. Do you think you have any responsibility in this
17 whatsoever?

18 A. Well, I have responsibility I should have do something
19 about him driving, but I'm not -- I don't -- if I have
20 -- if I am responsible for money, I don't have any.

21 Q. Okay. And do you -- do you believe that my client,
22 Gloria Oliver, based on what you know, was responsible
23 for causing this collision?

24 A. Well, Richard was driving the car, and I didn't give
25 her a ride. He gave her a ride.

1 Q. Okay.

2 A. And I feel like, by him giving her a ride, she should
3 have stayed there until the police come so everything
4 could have been accounted for.

5 Q. Okay. But that is after the collision; right?

6 A. Yes.

7 Q. Do you -- do you think she did anything to cause or
8 contribute to this collision itself?

9 A. I don't think anything about her because I wasn't
10 there.

11 Q. I understand. To your knowledge, did she ever get
12 arrested or did she ever face any crime as a ---

13 A. I don't know anything about her personal life. I
14 don't know.

15 Q. And you don't -- do you have any reason to believe
16 that she knew that -- that Mr. Prothro was an excluded
17 driver on that 1999 Ford Contour?

18 A. I don't think that she would have been worrying about
19 that and as my knowledge, there's no way for her to
20 know that, and I don't think she asked him that
21 either.

22 Q. Okay. Do you -- you mentioned you have friends that
23 you play cards with and stuff like that?

24 A. Who -- I have friends that I play cards with?

25 Q. Didn't you mention ---

1 A. Yeah, me and Richard play two man Spades in the house.
2 I don't go out. I don't play cards with -- with
3 anybody in the public. I do what I do at home.

4 Q. Okay. And the reason -- what I'm getting at is, do
5 you ever have friends that you ride with anywhere?

6 A. No.

7 Q. You don't?

8 A. No.

9 Q. Have you ever had friends that you rode with?

10 A. Yeah, when I was a teenager and I'm sixty-two (62)
11 years old now.

12 Q. Okay. Do you -- do you think if you rode with
13 somebody you should have responsibility to ask them if
14 the car is insured before you get in?

15 A. I probably should, but I -- I have never done that
16 before.

17 Q. Do you think most folks do?

18 A. I don't think nobody do that.

19 Q. Okay.

20 MR. McELVEEN: I appreciate you answering
21 all my questions. I don't think I have anything
22 else further, but your attorney may.

23 MS. PROTHRO: You're welcome.

24 MR. McELVEEN: Thank you, ma'am.

25 MR. CRUDUP: I do not.

1 MR. McELVEEN: Nothing?

2 MR. CRUDUP: I have nothing.

3 (THERE BEING NO FURTHER QUESTIONS, THE DEPOSITION WAS
4 CONCLUDED AT 7:12 P.M.).

5 STATE OF SOUTH CAROLINA)
) CERTIFICATE
COUNTY OF SUMTER)

I, Doris Tompkins Brown, Certified Verbatim Reporter
and Notary Public in and for the State of South Carolina,
certify that I did have Sharon Prothro appear
before me commencing at 6:09 P.M. on December 2, 2019 at
the offices of the Bryan Law Firm of SC, LLP, 17 East
Calhoun Street, Sumter, South Carolina; that the witness
was duly sworn and cautioned to tell the truth; that the
foregoing pages constitute a true and accurate transcript
of the testimony given at that time and place.

I hereby certify that I am not of counsel or kin
to any of the parties to this cause of action, nor am
I interested in any manner in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand
and seal this the 6th of January, 2020.

Doris Tompkins Brown .CVR
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission expires: 4-02-2025

Policy number: 55178995-0

SHARON PROTHRO

Page 5 of 12

Named Driver Exclusion Election

You have named the following persons as excluded drivers under this policy:

RICHARD PROTHRO

Date of Birth: May 6, 1955

No coverage is provided for any claim arising from an accident or loss involving a motorized vehicle being operated by an excluded person. This includes any claim for damages made against any named insured, resident relative, or any other person or organization that is vicariously liable for an accident or loss arising out of the operation of a motorized vehicle by the excluded driver.

This form must be signed by the named insured.

I understand and agree that this Named Driver Exclusion election shall apply to this policy and any renewal, reinstatement, substitute, amended, altered, modified or replacement policy with this company or any affiliated company, unless a named insured revokes this election.

I declare that either the driver's license of the excluded persons named in this Named Driver Exclusion election has been turned into the Department of Motor Vehicles, or that an appropriate policy of liability insurance or other security as may be authorized by law has been properly executed in the name of the person to be excluded.

Signature of named insured**Date**X *Sharon J. Prothro**7-2-09*

Form 9330 SC (04/07)

Claim # 165237341



Continued

PROGRESSIVE CLAIMS
2024 CORPORATE CENTRE DRIVE
SUITE 201
MYRTLE BEACH, SC 29577

PROGRESSIVE

Underwritten By:
Progressive Northern Insurance
Company

Claim Number: 16-5237341
Loss Date: July 24, 2016
Document Date: September 26, 2016
Page 1 of 1

BRYAN LAW FIRM
17 E CALHOUN ST
SUMTER, SC 29151

claims.progressive.com

Track the status and details of your claim,
e-mail your representative or report a
new claim.

Important information about your claim

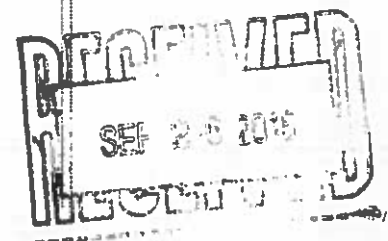
I've finished reviewing your claim. Unfortunately, after investigating all the available information, I was unable to find valid coverage for this incident and we won't be able to pay your claim. If you have your own insurance carrier, you may want to check with them to see if you have coverage under that policy.

If you have any questions or additional information that might help me find coverage for this incident, please call me at the number below.

Thank you,

DANIELLE GAMACHE
Claims Department
1-843-213-3912
1-800-PROGRESSIVE (1-800-776-4737)
Fax: 1-843-448-7239
dgamach1@progressive.com

Form 2522 2X (1/1/11) - 9C



BRYAN LAW FIRM OF SC, L.L.P.

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January 24, 2017

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* Certified Circuit Court Mediator
* Certified Family Court Mediator
* Fellow, American Academy of Matrimonial Lawyers

Progressive Claims
2024 Corporate Centre Dr., Ste. 201
Myrtle Beach, SC 29577
ATTN: Danielle Gamache

RE:	Our client:	Gloria Oliver
	Your Insured Driver:	Richard Prothro
	Your Insured:	Sharon Prothro
	Claim No.:	16-5237341
	Date of wreck:	7/24/2016

Dear Ms. Gamache:

I represent Gloria Oliver in the above mentioned automobile wreck.

My current understanding is that Progressive intends to deny my client's claim based on your position that Richard Prothro, who was driving the at-fault vehicle which was owned by your insured, did not have permission from the owner/your insured, Sharon Prothro, to drive the vehicle.

This position seems somewhat curious in light of the fact that Mr. Prothro claims a Sumter address while Ms. Prothro also claims a Sumter address, and to my knowledge the vehicle was not reported to authorities as stolen on or around July 24, 2016. If I am mistaken about this and you are in possession of an incident report which would memorialize that Ms. Prothro's vehicle was indeed stolen, I hereby request that you provide me with a copy of same.

In any event, if it remains Progressive's position to deny this claim, I hereby request a letter from Progressive which confirms your denial as well as the grounds on which Progressive denies my client's claim as the liability insurance company for the vehicle which was at fault in the above-captioned collision.

I will look forward to hearing from you in this regard.

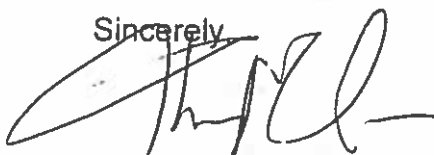
Signature on following page



State Farm
Page Two
January 24, 2017

With kind regards, I am

Sincerely,

A handwritten signature in black ink, appearing to read "J. McElveen, III". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

J. THOMAS McELVEEN, III

JTMcll/ewn
Enclosures

PROGRESSIVE CLAIMS
2024 CORPORATE CENTRE DRIVE
SUITE 201
MYRTLE BEACH, SC 29577

PROGRESSIVE

500614 13774 1 MB 0 423 CLTR501Q 050 013774

Underwritten By:
Progressive Northern Insurance
Company

Claim Number: 16-5237341
Loss Date: July 24, 2016
Document Date: February 6, 2017
Page 1 of 1

BRYAN LAW FIRM
17 E CALHOUN ST
SUMTER, SC 29151



claims.progressive.com

Track the status and details of your claim,
e-mail your representative or report a
new claim.

Claim Information

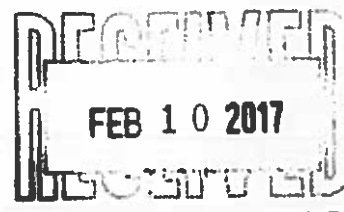
I am writing in response to your letter dated January 24, 2017. In your letter you asked for the grounds on which our coverage denial was decided.

The police report confirms that Richard Prothro was operating the 1996 Ford Contour at the time of the accident. When our insured, Sharon Prothro, purchased her policy on April 2, 2009 she decided to exclude Richard Prothro from the policy. She agreed and acknowledged that no coverage would be provided for any claim for damages against any named insured arising out of the operation of a motorized vehicle by the excluded driver, Richard Prothro.

Unfortunately since Mr. Prothro was operating the vehicle at the time of loss Progressive will be unable to honor any coverage for any claim arising out of this accident.

DANIELLE GAMACHE
Claims Department
1-843-213-3912
1-800-PROGRESSIVE (1-800-776-4737)
Fax: 1-843-448-7239

Form Z587 XX (01/08) - SC



ELECTRONICALLY FILED - 2021 Jul 12 2:50 PM - SUMTER - COMMON PLEAS - CASE#2019CP4300105

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January 8, 2018

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EIN 45-3953021

Attorney: tmcelveen@bryanlaw.com
Paralegal: enesbitt@bryanlaw.com

* Certified Circuit Court Mediator
* Certified Family Court Mediator
* Fellow, American Academy of Matrimonial Lawyers

Progressive
Attn: Danielle Gamache
2024 Corporate Centre Dr., Ste. 201
Myrtle Beach, SC 29577

RE: Our Client: Gloria Oliver
Your Insured: Sharon Prothro
Your Driver: Richard Prothro
Your Claim No.: 16-5237341
Date of Loss: July 24, 2016



UNINSURED MOTORIST CLAIM / DEMAND

Dear Ms. Gamache:

I am writing pursuant to Progressive's decision to deny liability coverage on behalf of your insured driver and/or your insured in connection with the above-referenced automobile wreck which was caused by Richard Prothro on or about July 24, 2016.

As you know, this case involves a wreck that occurred at approximately 9:35 a.m. in the parking lot of the Wal-Mart Neighborhood Market located at 615 Bultman Drive in Sumter, South Carolina. This incident occurred when Richard Prothro, who was driving a vehicle which was insured by Progressive at the time, traveled southbound in reverse at a high rate of speed and struck two (2) trees and four (4) parked vehicles. As you also know, my client Gloria Oliver was a guest passenger in the vehicle being operated by Mr. Prothro, which was insured by Progressive.

I am now ready to discuss settlement of the bodily injury claim of Gloria Oliver. Since Progressive has previously denied the liability claim filed on behalf of my client, I am now submitting this demand under the uninsured motorist (UM) portion of your policy, as Ms. Oliver was a guest passenger in your insured vehicle at the time this wreck occurred. Further, since Progressive has denied my client's liability claim, Mr. Prothro has been rendered an uninsured motorist for purposes of liability coverage as it pertains to this matter. I am thereby submitting this uninsured motorist claim pursuant to the Supreme Court of South Carolina's ruling in *Auto Owners Insurance Company v. Rollison*, 378 S.C. 600, 663 S.E.2d 484 (2008). I am enclosing a copy of the *Auto Owners Insurance Company v. Rollison* opinion for your review. Additionally, enclosed for your review are copies of Ms. Oliver's medical bills and medical records reflecting the treatment she received for the injuries suffered in this wreck. I have listed below the amounts of the medical bills we are claiming:

Progressive
January 8, 2018
Page Two

Gloria Oliver's bills are:

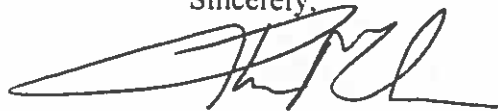
Palmetto Health Tuomey	\$897.00
Professional Services of Tuomey	\$545.00
Physicians Health & Injury Clinic	\$1,072.00
TOTAL	\$2,514.00

Taking into account the specials in this case, the pain and suffering factor involved, and the likelihood of an award of punitive damages due to the reckless conduct of the at-fault driver in this case, at this time I would be willing to recommend settlement of my client's claim in exchange for a tender of the uninsured motorist (UM) policy limits provided by Progressive and applicable to the instant claim, which I understand to be \$25,000.00/\$50,000.00.

As soon as you have reviewed all of the above information, I would appreciate you contacting me to discuss settlement of this claim.

With kind regards, I am,

Sincerely,



J. THOMAS McELVEEN, III

TM/ewn

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF SUMTER) CIVIL ACTION NO.: 2019-CP-43-00105

Progressive Northern Insurance Company,

Plaintiff,

vs.

Gloria Oliver, Richard Prothro and Sharon
Prothro,

Defendants.

Deposition of GLORIA D. OLIVER, taken by Doris
Tompkins Brown, Certified Verbatim Reporter and Notary
Public in and for the State of South Carolina, commencing
at 4:22 P.M. on December 2, 2019 at the offices of The
Bryan Law Firm, LLP, 17 East Calhoun Street, Sumter, South
Carolina.

APPEARANCES

ON BEHALF OF THE PLAINTIFF: Sarah E. Caiello
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ON BEHALF OF THE DEFENDANT:
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(Also present but not
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EXHIBIT INDEX

Named Driver Exclusion Election Pl. Ex. 1
(Signed in color)

* * * * *

(COURT REPORTER'S NOTE: --- INDICATES INTERRUPTION,
INCOMPLETE PHRASE, TRAILING OFF, INCOMPLETE SENTENCE)

**PROGRESSIVE NORTHERN INSURANCE COMPANY VS.
GLORIA OLIVER, RICHARD PROTHRO AND SHARON PROTHRO**

ELECTRONICALLY FILED - 2021 Jul 12 2:50 PM - SUMTER - COMMON PLEAS - CASE#2019CP4300105

1 The deposition of Gloria D. Oliver is being taken
2 pursuant to Notice and in accordance with the South
3 Carolina Rules of Civil Procedure and Amendments as adopted
4 by the Supreme Court which shall control the taking of said
5 deposition and its use thereof.

6 Counsel, with the specific consent of the witness,
7 waives the reading and signing of the deposition prior to
8 the time it is filed with the Court.

9 (Gloria D. Oliver, having been duly sworn, testifies as
10 follows:)

11 EXAMINATION BY MS. CAIELLO:

12 Q. Ms. Oliver, my name is Sarah Caiello. We met a few
13 minutes ago before all this started. And I represent
14 Progressive, an insurance company, in the -- the other
15 case you have got going on. It is the one about the
16 insurance coverage, trying to figure out if there's
17 insurance coverage for the accident; does that make
18 sense?

19 A. Yes, ma'am.

20 Q. Okay. Do you remember all the -- the rules of the
21 game for the deposition that -- that they went over
22 earlier about ---

23 A. Yes.

24 Q. -- verbal questions -- verbal answers, that sort of
25 thing?

1 MR. McELVEEN: And to protect you, I
2 think we should simply put on the record
3 that -- that she literally heard those
4 instructions within the last hour and a
5 half, she recalls those instructions and
6 we're fine.

7 MS. CAIELLO: Absolutely. Great.
8 Thank you. That's helpful.

9 Q. So, you just did the deposition in the tort case in
10 this?

11 A. Yes.

12 Q. Right. About the accident?

13 A. Yes.

14 Q. Great. So, you heard all those -- those rules; we
15 play by those same rules now.

16 A. Yeah. Yes.

17 Q. Good deal. Thank you. And I believe that I have a
18 copy here -- you had just finished talking with the
19 other attorneys during that tort deposition about this
20 page. We can mark it as Plaintiff's One in this one
21 as well.

22 COPY OF NAMED DRIVER EXCLUSION ELECTION
23 MARKED PLAINTIFF'S EXHIBIT NUMBER ONE.

24 Q. I think the only difference is that one has colored
25 ink for the signature; is that right?

- 1 A. Yes.
- 2 Q. Between what you just saw?
- 3 A. Yes.
- 4 Q. Okay. And you said that you had never seen that
- 5 before; is that correct?
- 6 A. No, I never seen that paper before.
- 7 Q. Okay. And that's -- just so that we are all on the
- 8 same page, that is a document that says Named Driver
- 9 Exclusion Election at the top?
- 10 A. Uh-huh (affirmative response).
- 11 Q. That is a yes?
- 12 A. Yes.
- 13 Q. Okay. Thank you. And it has Ms. Sharon Prothro's
- 14 signature at the bottom; is that what you see?
- 15 A. Yes.
- 16 MR. McELVEEN: Object to the form.
- 17 Q. Okay. But you see a signature that says Sharon
- 18 Prothro?
- 19 A. Yes, ma'am.
- 20 Q. Okay. Good deal. Had you ever been given any
- 21 documents called a Request to Admit?
- 22 A. No.
- 23 Q. Have you ever heard of what that might be?
- 24 A. No.
- 25 Q. Okay. So, have you ever been asked in this lawsuit to

1 look at this document before today and say that --
2 yes, this is a signature of Sharon Prothro?

3 A. No, I've never seen that.

4 Q. Okay. Had you ever been asked whether that document
5 says Mr. Richard Prothro is excluded from the
6 Progressive policy?

7 A. No, I never seen that paper.

8 Q. Okay. So, you had never been asked any questions
9 about that document beforehand?

10 A. No.

11 Q. Okay. Are you aware that Progressive has asked any
12 questions of you or attorney about this document?

13 MR. McELVEEN: Object to the form.

14 Q. You can answer.

15 A. No, I'm not aware.

16 Q. Okay. And do you see the date by Ms. Sharon Prothro's
17 signature on the bottom of that page?

18 A. Yes.

19 Q. What is the date?

20 A. The 4th, the 2nd, '09.

21 Q. April the 2nd, 2009?

22 A. Yes.

23 Q. And that was before this accident occurred; is that
24 correct?

25 A. That's April the -- my accident happened July the

1 24th.

2 Q. Of what year?

3 A. Of last year, Two Thousand and --I think 2018.

4 Q. 2018. So, this document, if it was signed on April

5 the 2nd, ---

6 A. No, that's not -- let's see. That happened July the --

7 July the 24th -- this is the '19; so how long ago --

8 I think it was like the '18.

9 Q. Your accident was in 2018; is that correct?

10 A. What's that -- let's see. '18. This '19. '17 --

11 between the '17 or '18. I'm not really sure ---

12 Q. Of the year?

13 A. -- of the year.

14 Q. Okay.

15 A. But I definitely know the date was July the 24th, and

16 it happened that morning.

17 Q. Okay. But it was in either in 2017 or 2018; ---

18 A. Yeah.

19 Q. -- that the accident happened?

20 A. Yes. Apparently. Uh-huh (affirmative response).

21 Q. But this document is dated in the year of 2009; is

22 that correct?

23 A. What, this right here?

24 Q. Right. Plaintiff's Exhibit One that you are looking

25 at right here where it has that signature at the

1 bottom and the date that we were just talking about.

2 A. This accident didn't happen -- didn't happen in April
3 -- April in the -- April the 2nd.

4 Q. Right. This document has a date that is before your
5 accident occurred; is that correct?

6 A. Yes, it got the 4th and the 2nd and 2009.

7 Q. And your accident was in 2018; correct?

8 A. I pretty sure.

9 Q. Okay.

10 MS. CAIELLO: I think that is all

11 I have.

12 MR. McELVEEN: Just one follow-up.

13 EXAMINATION BY MR. McELVEEN:

14 Q. I will just ask this question. You mentioned several
15 times, Ms. Oliver, that the wreck happened on July
16 24th. Could it have been 2016?

17 A. Yes, it's -- it happened the 24th between Two Thousand
18 and -- this -- '17, '16, '17, '18, '19. So, it had to
19 been in '16 because it's over two years before my
20 business got handled; so, I think it was like the '16.
21 2016.

22 Q. Because -- because in a prior deposition that you
23 recently gave ---

24 A. Yeah.

25 Q. -- within in the last hour, I think the question was

1 asked to you ---

2 A. Yeah. I'm sorry. I'm sorry. My mistake.

3 Q. I just want to make sure we have got the date
4 straight.

5 A. Yeah. Yeah, that's right.

6 MS. CAIELLO: I think that was my error.

7 I think I read my date wrong.

8 A. Yeah.

9 MS. CAIELLO: So ---

10 A. I'm sorry. I apologize. It was the '16 because it's
11 -- like right now, it's '19. Yes.

12 MS. CAIELLO: Okay.

13 A. '17, '18. Uh-huh (affirmative response).

14 Q. And the question I will ask you, and without divulging
15 anything that you and I talked about that is protected
16 by attorney/client privilege, I will ask you again,
17 prior -- prior to the date of this wreck which we now
18 agree on was July 24th, 2016, ---

19 A. Exactly.

20 Q. -- had anybody ever told you that there might not be
21 insurance on the vehicle that was involved in the
22 wreck that day?

23 A. No.

24 Q. Okay. And you testified earlier in a -- another
25 deposition that Richard Prothro was the driver of that

1 vehicle?

2 A. Yes.

3 Q. You testified earlier that you believed that he was
4 the one that owned the vehicle?

5 A. Yes.

6 Q. Okay. And as of July 24th, 2016, had anybody ever
7 told you that there was not insurance on that vehicle?

8 A. No.

9 Q. Okay. And prior to July 24th, 2016, did anybody ever
10 tell you that there might not be insurance on that
11 vehicle?

12 A. No.

13 Q. Okay.

14 A. No.

15 Q. And up and to and prior to July 24th, 2016, had -- did
16 you have any reason to believe that the vehicle that
17 -- that you were riding in with Richard Prothro as the
18 driver did not have valid insurance?

19 A. No. No, I didn't know that.

20 Q. Okay.

21 A. No, I didn't know that.

22 MR. MCELVEEN: That's all I've got.

23 EXAMINATION BY MS. CAIELLO:

24 Q. Okay. Real quick here. Just so I -- just real quick.

25 Do you have a Driver's License?

- 1 A. No.
- 2 Q. Do you have a car?
- 3 A. No.
- 4 Q. How do you usually get places?
- 5 A. My family takes me around.
- 6 Q. Okay. They have their own cars and Driver's Licenses?
- 7 A. Exactly.
- 8 Q. Okay.
- 9 A. Yes.
- 10 Q. Which family members usually drive you?
- 11 A. Like different ones, cousins, ---
- 12 Q. Okay.
- 13 A. -- sisters, aunties.
- 14 Q. You have got a lot of family in the area?
- 15 A. Brothers. Yes.
- 16 Q. Okay. Do you usually ask drivers of cars if they have
- 17 insurance before you ride in those cars?
- 18 A. No, I don't ask that kind of question. No.
- 19 Q. Do you think it is common that people would do that?
- 20 MR. MCELVEEN: Object to the form.
- 21 Q. You can still answer.
- 22 A. No, because people don't really ask that -- those type
- 23 of questions, you know. No.
- 24 Q. Sure. So, did it occur to you to ask Mr. Richard
- 25 Prothro that day if he had insurance on the car?

1 A. No, that didn't even cross my mind. No.

2 Q. Would that have stopped you from getting in the car?

3 A. If I had ---

4 Q. That day?

5 A. -- if I had known if he told me that, pretty much, but
6 he didn't told me that.

7 Q. And you didn't think to ask that question?

8 A. No, I didn't think to ask him that. All I asked him
9 was to take me to Wal-Mart, and that was that.

10 Q. Okay.

11 MS. CAIELLO: I think that's it.

12 Thank you.

13 MR. MCELVEEN: That's it.

14 MR. CRUDUP: That is really it.

15 (THERE BEING NO FURTHER QUESTIONS, THE DEPOSITION WAS
16 CONCLUDED AT 4:35 P.M.).

17

1 STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER) CERTIFICATE

I, Doris Tompkins Brown, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, certify that I did have Gloria D. Oliver appear before me commencing at 4:22 P.M. on December 2, 2019 at the offices of the Bryan Law Firm of SC, LLP, 17 East Calhoun Street, Sumter, South Carolina; that the witness was duly sworn and cautioned to tell the truth; that the foregoing pages constitute a true and accurate transcript of the testimony given at that time and place.

I hereby certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 4th of January, 2020.

Doris Tompkins Brown, CVR
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission expires: 4-02-2025

Policy number: 55178995-0
SHARON PROTHRO
Page 5 of 12

Named Driver Exclusion Election

You have named the following persons as excluded drivers under this policy:

RICHARD PROTHRO

Date of Birth: May 6, 1955

No coverage is provided for any claim arising from an accident or loss involving a motorized vehicle being operated by an excluded person. This includes any claim for damages made against any named insured, resident relative, or any other person or organization that is vicariously liable for an accident or loss arising out of the operation of a motorized vehicle by the excluded driver.

This form must be signed by the named insured.

I understand and agree that this Named Driver Exclusion election shall apply to this policy and any renewal, reinstatement, substitute, amended, altered, modified or replacement policy with this company or any affiliated company, unless a named insured revokes this election.

I declare that either the driver's license of the excluded persons named in this Named Driver Exclusion election has been turned into the Department of Motor Vehicles, or that an appropriate policy of liability insurance or other security as may be authorized by law has been properly executed in the name of the person to be excluded.

Signature of named insured

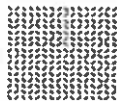
Date

X *Sharon J. Prothro*

4-2-09

Form 9330 SC (04/07)

Claim # 165237341



Continued

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
 COUNTY OF SUMTER) CIVIL ACTION NO.: 2019-CP-43-00105

Progressive Northern Insurance Company,)

Plaintiff,)

vs.)

Gloria Oliver, Richard Prothro and Sharon)
 Prothro,)

Defendants.)

Deposition of SHARON PROTHRO, taken by Doris
 Tompkins Brown, Certified Verbatim Reporter and Notary
 Public in and for the State of South Carolina, commencing
 at 7:17 P.M. on December 2, 2019 at the offices of The
 Bryan Law Firm, LLP, 17 East Calhoun Street, Sumter, South
 Carolina.

APPEARANCES

ON BEHALF OF THE PLAINTIFF: Sarah E. Caiello
 Murphy and Grantland, P.A.
 Post Office Box 6648
 Columbia, South Carolina

ON BEHALF OF THE DEFENDANT: J. Thomas McElveen, III
 (Gloria Oliver) The Bryan Firm, LLP
 Post Office Box 2038
 Sumter, South Carolina

Doris Tompkins Brown

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(Also present but not
participating):

Jeffrey M. Crudup
Clarkson Walsh & Coulter
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* * * * *

(COURT REPORTER'S NOTE: --- INDICATES INTERRUPTION,
INCOMPLETE PHRASE, TRAILING OFF, INCOMPLETE SENTENCE)

**PROGRESSIVE NORTHERN INSURANCE COMPANY VS.
GLORIA OLIVER, RICHARD PROTHRO AND SHARON PROTHRO**

1 The deposition of Sharon Prothro is being taken
2 pursuant to Notice and in accordance with the South
3 Carolina Rules of Civil Procedure and Amendments as adopted
4 by the Supreme Court which shall control the taking of said
5 deposition and its use thereof.

6 Counsel, with the specific consent of the witness,
7 waives the reading and signing of the deposition prior to
8 the time it is filed with the Court.

9 (Sharon Prothro, having been duly sworn, testifies as
10 follows:)

11 EXAMINATION BY MS. CAIELLO:

12 Q. Ms. Prothro, ---

13 A. Yes.

14 Q. -- thank you for your patience today. I know it has
15 been a long afternoon for you.

16 A. Yes.

17 Q. My name is Sarah Caiello. I am another attorney; I am
18 involved in the DJ action, Declaratory Judgment
19 action. It is basically where the insurance company
20 is trying to establish whether there is or is not
21 coverage under your car insurance policy in the
22 accident we are here about today. Do you understand
23 that?

24 A. Yes.

25 Q. Okay.

1 MS. CAIELLO: And I'm just going to
2 ask again if we're okay to stipulate that
3 she was in a tort deposition earlier today,
4 heard all the rules ---

5 MR. McELVEEN: Yeah, please.

6 Q. Okay. So ---

7 MR. McELVEEN: I can say it for the
8 record, too. I mean, we -- from the
9 Defendant's side of this case, at least my
10 client's side, we stipulate that Ms. Oliver
11 was advised of the deposition earlier,
12 seemed to understand them, and we have no
13 issues going forward without re-explaining
14 all of that. Does that work?

15 MS. CAIELLO: Works for me.

16 MR. McELVEEN: Okay.

17 Q. So, just do you remember the rules that we went played
18 by earlier?

19 A. Yes.

20 Q. Verbal answers. You are doing great with that.

21 A. Yes.

22 Q. Okay. We are going to do our best to not talk over
23 each other, but I'm going to do my best to go quickly.

24 I know that you have been here for a while today.

25 Okay?

1 A. Okay.

2 Q. Okay. And I just have some basic questions. Just
3 following up on some things that you had said in the
4 earlier deposition, I want to make sure I understand
5 them all. I believe you said that you are currently
6 seeing a psychiatrist or a psychologist; is that
7 correct?

8 A. Yes.

9 Q. Who is that?

10 A. Dr. Davis.

11 Q. And where does Dr. Davis practice?

12 A. Santee-Wateree.

13 Q. Okay.

14 A. Mental Health.

15 Q. Okay. And what are you seeing him for?

16 A. For anxiety and PTSD.

17 Q. Okay. And are you on any medications for those
18 conditions?

19 A. Yes.

20 Q. Which ones?

21 A. Fluoxetine and -- and -- I'm forgetting. Hold on.
22 Prazosin.

23 Q. Okay. And do those medications -- would they affect
24 you and your ability to give truthful testimony today?

25 A. No.

- 1 Q. Okay. Do you take those every day?
- 2 A. Yes.
- 3 Q. Okay. Do you take other medications?
- 4 A. Yes.
- 5 Q. Which ones were those?
- 6 A. I take Amlodipine and Quinapril for blood pressure.
- 7 I take Meloxicam for arthritis. I take Metformin for
- 8 Type II diabetes.
- 9 Q. Okay. And I think I will just jump right in and ask
- 10 you -- start asking you a little bit about the policy
- 11 ---
- 12 A. Okay.
- 13 Q. -- that you have with Progressive.
- 14 A. Okay.
- 15 Q. Do you remember applying for that policy?
- 16 A. Yes.
- 17 Q. When was that?
- 18 A. 2009.
- 19 Q. Okay. Which -- which insurance company did you have
- 20 before you had a Progressive policy?
- 21 A. I hadn't had insurance in years before that. I can't
- 22 remember my old insurance company.
- 23 Q. Okay. And why did you take out the Progressive
- 24 policy?
- 25 A. Because I had just got a car and I needed insurance,

1 and I picked -- chose Progressive.

2 Q. Why did you choose Progressive?

3 A. Because I liked the price that they offered me.

4 Q. That's a good reason to choose ---

5 A. And that's what I could afford.

6 Q. And that is a good reason to choose an insurance
7 policy.

8 MR. McELVEEN: Objection.

9 Q. I think we all like getting those low rates. So, you
10 don't remember who you had a previous policy with or
11 when it was?

12 A. No, that's been so many years ago, I wouldn't probably
13 give you the right name or the right date.

14 Q. Okay. Do you remember if anybody else was on that
15 policy with you?

16 A. No.

17 Q. Okay. Was this before you and Mr. Prothro got
18 married?

19 A. Yes.

20 Q. Okay. Had you ever had any other policy that listed
21 Mr. Prothro ---

22 A. No.

23 Q. -- before the Progressive policy?

24 A. No.

25 Q. Okay. You said you remember the day you applied for

1 this policy?

2 A. I remember about the time I applied for it, yes.

3 Q. Okay. Do you remember how you applied for that
4 policy?

5 A. I walked in.

6 Q. And you walked in where?

7 A. To Progressive on Wesmark Boulevard. Jim Robertson
8 Agency.

9 Q. And that is here in Sumter?

10 A. Yes.

11 Q. Okay. Do you remember who you worked with at that
12 agency, the name of the person?

13 A. I can't remember her name, no.

14 Q. But it was a woman?

15 A. Yes.

16 Q. Was it Leslie Todd?

17 A. Leslie.

18 Q. Leslie. Okay. Had you worked with Leslie before?

19 A. Well, most -- most of the years -- the years that I've
20 been insured there, I worked with Leslie and the other
21 girl that worked in there with her; I've forgot her
22 name.

23 Q. Okay. But you worked with Leslie on your policy. Do
24 you still work with her even today on your policy?

25 A. Both of them. It's three people in there, and

1 sometimes Leslie do it and sometimes one of the other
2 ladies do it.

3 Q. Okay. What do you remember about the day that you
4 went in to apply for the Progressive policy?

5 A. I remember that I had Richard as an excluded driver.

6 Q. Okay. How did that come about?

7 A. I told them about his driving record and -- and he
8 would have to be excluded with his driving record.
9 And he didn't have a License at the time; his License
10 was suspended.

11 Q. Okay. Was Mr. Prothro with you at that time?

12 A. One time, yes.

13 Q. Okay. I'm going to give you what is going to be
14 marked as Plaintiff's Exhibit One.

15 A. Okay.

16 COPY OF DRIVER EXCLUSION ELECTION FORM
17 MARKED PLAINTIFF'S EXHIBIT NUMBER ONE.

18 Q. And you may have already seen this document today, but
19 I'm going to ask you to look over it a minute and I'm
20 going to ask you a few questions when you are ready.

21 A. I'm ready because I've read it before.

22 Q. You have read it before?

23 A. Uh-huh (affirmative response).

24 Q. Okay. How many times have you read it before?

25 A. I don't know.

- 1 Q. Is more than once the case that ---
- 2 A. Yeah, I read it more than once.
- 3 Q. Okay. Do you remember the first time you saw this
- 4 document?
- 5 A. When I took the insurance out.
- 6 Q. Okay.
- 7 A. When I first took the insurance out.
- 8 Q. Okay. And just for the record, this Plaintiff's
- 9 Exhibit One is the Named Driver Exclusion Election
- 10 Form for the -- the policy application; is that
- 11 correct?
- 12 A. Right.
- 13 Q. Okay. So, you said that you first saw this when you
- 14 took the policy out, the Progressive policy?
- 15 A. Yes.
- 16 Q. And was that in 2009?
- 17 A. Yes.
- 18 Q. Okay. I see there is a signature down at the bottom.
- 19 Is that your signature?
- 20 A. That's my signature.
- 21 Q. Okay. What is the middle initial there?
- 22 A. Janice. That's my middle name.
- 23 Q. My aunt's name is Janice. Okay. So, that's Sharon J.
- 24 Prothro?
- 25 A. Yes.

- 1 Q. Is that correct?
- 2 A. Yes.
- 3 Q. And what is the date right there next to it?
- 4 A. 4-2-09.
- 5 Q. April 2nd of 2009?
- 6 A. Yes.
- 7 Q. And that is about when you took out the policy?
- 8 A. Yes.
- 9 Q. Okay. Do you remember signing this document?
- 10 A. Yes.
- 11 Q. Where were you when you signed it?
- 12 A. I was in one of the customer stations where they talk
- 13 to you to take out insurance.
- 14 Q. At the local agency with Leslie?
- 15 A. Yes.
- 16 Q. Okay. Here in Sumter?
- 17 A. Yes.
- 18 Q. And had Leslie explained what this document means to
- 19 you?
- 20 A. Yes, she explained it.
- 21 Q. How did she explain that to you?
- 22 A. She told me that since Richard didn't have a Driver's
- 23 License, he would have to be an excluded driver on my
- 24 policy.
- 25 Q. Okay. And do you see -- it's -- it is the next to

1 last paragraph here, ---

2 A. Uh-huh (affirmative response).

3 Q. -- I believe -- no, I'm sorry, it is the last
4 paragraph here where it says, "I declare that even the
5 Driver's License of the excluded persons named in
6 this Named Driver Exclusion Election has been turned
7 in to the Department of Motor Vehicles." Do you see
8 where it says that?

9 A. Yes.

10 Q. And you said that Mr. Prothro's Driver's License was
11 suspended at the time you took out the policy?

12 A. Yes.

13 Q. So, you believed that this was appropriate since he
14 did not have a License at that time?

15 A. Yes.

16 Q. Okay. And just to clarify here at the top, who is
17 listed as the excluded driver?

18 A. Richard.

19 Q. Your husband, Richard Prothro?

20 A. Yes.

21 Q. And what is the date of birth that is listed there?

22 A. 5-6-55.

23 Q. And is that Mr. Prothro's date of birth?

24 A. Yes.

25 Q. So, do you believe this document to refer to your

1 husband, Richard Prothro?

2 A. Yes.

3 Q. Okay. And do you see here just under where his name
4 is listed where it says that, "No coverage is provided
5 for any claim arising from an accident or a loss
6 involving a motorized vehicle being operated by an
7 excluded person"?

8 A. Yes.

9 Q. What do you believe that means?

10 A. It means that if -- if he's driving a car and he get
11 into an accident that the insurance company's not
12 liable to pay.

13 Q. Okay. And you saw where it says "a motorized
14 vehicle;" right?

15 A. Yes.

16 Q. In that same sentence?

17 A. Yes.

18 Q. It doesn't specify any particular car, does it?

19 A. No.

20 Q. And then we will go down to that next to the last
21 paragraph. I'm going to read this one, too; it's a
22 little bit long.

23 A. Okay.

24 Q. But just follow along and see if this is what it says.

25 A. Okay.

1 Q. "I understand and agree that this Named Driver
2 Exclusion Election shall apply to this policy and any
3 renewal, reinstatement, substitute, amended, altered,
4 modified or replacement policy with this company or
5 any affiliated company unless a named insured revokes
6 this election." Is that what ---

7 A. Yes.

8 Q. -- that paragraph says?

9 A. Yes.

10 Q. Okay. So, you understand then that this document
11 applies until you as the named insured change it?

12 A. Yes.

13 Q. Okay. Did you ever go in and change it?

14 A. No.

15 Q. To this day, is Mr. Richard Prothro excluded from your
16 auto insurance?

17 A. Yes, he's still an excluded driver on my -- on my
18 policy.

19 Q. Do you still have that same Progressive policy?

20 A. Yes.

21 Q. Through Leslie Todd at Jim Robertson Agency?

22 A. Yes.

23 Q. And you said that that was your -- your signature ---

24 A. Yes, that's my signature.

25 Q. Okay. Let me finish. So, that is your signature at

1 the bottom acknowledging ---

2 A. Yes.

3 Q. -- all these statements?

4 A. Yes.

5 Q. Okay. And you never put Richard on the policy ---

6 A. No.

7 Q. -- after -- let me finish one second.

8 A. I'm sorry.

9 Q. That's all right. I understand. It's been a long
10 day.

11 A. Uh-huh (affirmative response).

12 Q. After April 2nd, 2009, when you signed this document,
13 did you ever revoke this document and put Richard on
14 your policy?

15 A. No.

16 Q. And I believe earlier in your other deposition, you
17 said that you had moved into your new apartment where
18 you live now in May of this year, 2019?

19 A. May the 6th of this year.

20 Q. Okay. And where did you live before that?

21 A. 111 Crescent Avenue.

22 Q. Okay. Is that where you lived when you took out the
23 Progressive policy in 2009?

24 A. Yes.

25 Q. Okay. So, you were still living at 111 Crescent

1 Avenue in January of 2019?

2 A. Yes.

3 Q. Okay. I'm going to ask you a question here.

4 A. Okay.

5 Q. Do you remember anyone coming to your home on January
6 28th, 2019 around 6:30 at night?

7 A. Yes. That was you?

8 Q. No, no.

9 A. Okay.

10 Q. I'm just asking if anyone did. I have never been to
11 your house, for the record.

12 A. Oh, yes. Oh, yes, I remember. I'm sorry.

13 Q. Ms. Prothro, this is the first time I have ever met
14 you.

15 A. Okay.

16 Q. Just for the record.

17 A. Yes, I remember.

18 Q. Okay. Do you remember what happened that night?

19 A. The only thing I remember is, we went to the door and
20 -- and -- and got the papers from her.

21 Q. Okay. What papers was that?

22 A. The papers telling us about Ms. Oliver suing us.

23 Q. Okay. Do you know if that was about the -- the tort
24 law -- the car accident lawsuit or the lawsuit with
25 Progressive?

1 A. I don't know which one. I'm -- I can't remember which
2 one. I know it was one or the other.

3 Q. Sure. But somebody did come to your house at the end
4 of January to give ---

5 A. Yeah, somebody delivered papers to -- to -- to us
6 about three times before.

7 Q. About three times, okay.

8 A. Yes.

9 Q. Do you know what all those times were about?

10 A. About the same thing.

11 Q. Okay. But you don't know whether it was about the car
12 accident case or the case with the insurance policy,
13 do you?

14 A. I can't remember.

15 Q. Okay.

16 A. But I -- but I know I've got all the papers.

17 Q. Okay. And you got some in January, end of January
18 2019?

19 A. Yes.

20 Q. Okay.

21 A. Yes.

22 Q. So, you can't say for sure that you never received the
23 paperwork about the insurance policy lawsuit?

24 A. Right.

25 Q. Okay. You may have?

1 A. I may have. I got so many of them; I may have. I
2 don't want to tell you a lie because I know I was
3 getting all the papers that I got. I answered the
4 door and got them.

5 Q. Okay. I appreciate that.

6 A. Uh-huh (affirmative response).

7 Q. Truthful answers. That is what we all want here.

8 A. Right.

9 Q. Okay. And that was at your old address?

10 A. Yes.

11 Q. That Crescent Avenue?

12 A. That was all of them were delivered at the old
13 address.

14 Q. Okay.

15 MS. CAIELLO: I think that's all the
16 questions I have at this time, but he
17 might have a few more.

18 MR. MCELVEEN: I've got a few.

19 MS. PROTHRO: Okay.

20 EXAMINATION BY MR. MCELVEEN:

21 Q. Ms. Prothro, I want to make sure you understand this.

22 A. Okay.

23 Q. Do you know why you give -- why you are giving two
24 separate depositions today?

25 A. No. Well, yeah, she explained to me. She said one is

- 1 for the insurance company, and the other one is for
2 Ms. Oliver.
- 3 Q. Okay. And so, you understand that earlier I took your
4 deposition?
- 5 A. Yes.
- 6 Q. And you understand Mr. Crudup here is your attorney
7 for that action?
- 8 A. Yes.
- 9 Q. Right?
- 10 A. Yes.
- 11 Q. That -- that is the action that my client, Gloria
12 Oliver, brought against you and your husband, Richard
13 Prothro?
- 14 A. Yes.
- 15 Q. That is what we just did in the last deposition?
- 16 A. Yes.
- 17 Q. You understand this deposition is because -- I'm
18 basically in the same seat that you are; you realize
19 that this deposition is because Progressive Northern
20 Insurance Company sued my client, Gloria Oliver, as
21 well as you and your husband?
- 22 A. Yes, you told me that.
- 23 Q. You understand that now?
- 24 A. Yes.
- 25 Q. Okay. Did you understand that ---

1 A. Before, no.

2 Q. Did you understand that on January 28th, 2019?

3 A. No.

4 Q. So, do you have -- do you presently -- have you
5 retained an attorney for the -- for the action that
6 Progressive has brought against you ---

7 A. No, I have ---

8 Q. -- and my client?

9 A. No, I haven't.

10 Q. Has your husband retained an attorney?

11 A. No.

12 Q. Okay. And so, for the -- for the other action we are
13 talking about where my -- where my client sued you and
14 your husband, you do have an attorney, right, Mr.
15 Crudup?

16 A. Yes.

17 Q. Did -- I don't want to talk about anything that you
18 talked to him about. Was he assigned to you or did
19 you hire him?

20 A. I didn't hire anybody.

21 Q. Okay. How -- was -- who assigned Mr. Crudup to you?

22 A. I don't know.

23 Q. You don't know?

24 A. No.

25 Q. You don't know how he came to represent you?

1 A. No.

2 Q. Okay. Has anybody given you or sent an attorney to
3 you for the action we are here for right now where
4 Progressive has sued you, my client and Mr. Prothro?

5 A. No.

6 Q. Nobody gave you an attorney for that?

7 A. No.

8 Q. And nobody from Progressive Insurance Company
9 explained to you what was going on with that?

10 A. No.

11 Q. Okay. And so, let me ask you this question. Are you
12 aware that Progressive Insurance Company not only sued
13 you, their insured, as well as your husband, but they
14 also filed a Motion to have you in default; are you
15 aware of that?

16 A. No.

17 Q. Has anyone ever -- ever made you aware of that?

18 A. No.

19 Q. Has anybody ever made you aware that as of -- bear
20 with me one second -- has anyone made you aware that
21 as of approximately April 25th of 2019, that an Order
22 was signed by a Judge stating that you and your
23 husband are in default as a result of not answering
24 the Complaint that Progressive filed against you, my
25 client and Richard Prothro?

1 A. No.

2 Q. No one has made you aware of that?

3 A. No.

4 Q. This is the first you have heard of this?

5 A. The first I can remember.

6 Q. Okay. So, you have -- so, you have a lawyer for the
7 action that my client has brought against you, but
8 you don't have one for the action -- for the cause of
9 action that Progressive ---

10 A. No.

11 Q. -- has brought you and your husband?

12 A. No.

13 Q. Okay. I just wanted to make sure I understand that.
14 And you mentioned some -- you answered some more
15 questions from Ms. Caiello just a second ago about the
16 Named Driver Exclusion Election that has already been
17 put into evidence in every deposition today?

18 A. Yes.

19 Q. Do you have any reason to believe that my client,
20 Gloria Oliver, knows about that?

21 A. Knows what?

22 Q. I will restate the question. Do you have any reason
23 to believe that my client, Gloria Oliver, would have
24 known about that exclusion on or before ---

25 A. No.

1 Q. -- July 24th, 2016?

2 A. No. No.

3 Q. That is a no?

4 A. No.

5 Q. Do you -- do you have any reason to believe that
6 anybody would have told my client, Gloria Oliver
7 about that exclusion that has been referenced in this
8 deposition on or before July 24th, 2016?

9 A. Well, the -- the day -- the day that I told you that
10 I saw her a good while after the accident, she came up
11 to the van and asked me who my insurance -- who was I
12 insured with, and I told her -- and I told her, I
13 said, "Well, they probably won't pay you nothing," I
14 said, "because I only have liability." That's all I
15 told her, and that was it.

16 Q. Do you have any reason to believe that -- that Gloria
17 Oliver knew that on July 24th, 2016?

18 A. I don't think she knew that on the 24th of -- the day
19 of the accident because she didn't ask anybody, and
20 she couldn't have asked me because I don't know her
21 like that.

22 Q. Do you think she -- do you think she has some sort or
23 responsibility to ask that question on July 24th,
24 2016?

25 A. I think she probably should have asked.

1 Q. She should have asked? She should have -- you think
2 she should have asked ---

3 A. Asked Richard. She couldn't have asked me anything
4 because I knew nothing about him giving her a ride.
5 I was at home.

6 Q. Would you ever get in somebody's vehicle -- would you
7 ever get in somebody's vehicle and ask them beforehand
8 if they had valid insurance on the vehicle?

9 A. I probably wouldn't.

10 Q. Probably wouldn't?

11 A. No.

12 Q. So, is there a reason why you think Ms. Oliver should
13 but you shouldn't?

14 A. No.

15 Q. Okay. Do you -- would you agree that on July 24th,
16 2016 that she was a guest in the vehicle that Mr.
17 Prothro was driving?

18 A. Yes.

19 Q. Okay. You just -- you just didn't know about it at
20 the time?

21 A. No, I didn't know about it.

22 Q. Okay. All right. And not for the first deposition,
23 okay, because you have an attorney; I don't want to
24 know what you talked to Mr. Crudup about, period.

25 Have you talked to anybody to prepare for the

1 deposition that we are taking right now?

2 A. No.

3 Q. Nobody has talked to you about it?

4 A. No.

5 Q. Okay. Nobody from Progressive has talked to you about
6 it?

7 A. No.

8 Q. And to be clear, you still have Progressive as your
9 insurance company; is that right?

10 A. Yes.

11 Q. Despite the fact that they have sued you?

12 A. Yes.

13 Q. Okay.

14 MR. McELVEEN: Nothing further.

15 MS. CAIELLO: I have just a few more
16 just very quickly and then we will be done.

17 MS. PROTHRO: Okay.

18 EXAMINATION BY MS. CAIELLO:

19 Q. We talked earlier about this same document,
20 Plaintiff's Exhibit One, the Named Driver Exclusion
21 Election Form, and we -- we read that second paragraph
22 right after your husband's name is listed. It said
23 that "There is no coverage for any claim arising from
24 an accident or loss involving a motorized vehicle
25 being operated by excluded person;" do you remember

1 that?

2 A. Yes.

3 Q. And you just testified that, when you saw Ms. Oliver
4 after the accident, you had told her that you don't
5 believe that Progressive would provide any coverage;
6 is that correct?

7 A. Yes, I remember telling her that.

8 Q. Okay. And you agree that the Named Driver Exclusion
9 Election Form in front of you as Plaintiff's Exhibit
10 One means that there is no coverage on the policy for
11 Richard Prothro?

12 A. Yes.

13 Q. Now, if you -- I believe Mr. McElveen had asked you if
14 you would ask anybody before getting in a car with
15 them if they have insurance on the car, and you said
16 "No"; is that right?

17 A. Right.

18 Q. Okay. Would you expect then, if the answer was no,
19 they didn't have insurance on the car but you didn't
20 know that, would you expect to get any insurance money
21 if you were involved in an accident in that car?

22 MR. McELVEEN: Object to the form.

23 Q. You can answer.

24 A. I don't know.

25 Q. So, if you had ridden in a car and didn't know that

1 someone was an excluded driver and had a form just
2 like this, if you had ridden in that car, would you
3 have expected to get any money from them?

4 MR. MCELVEEN: Object to the form.

5 A. If I had known it, I wouldn't expect to get any.

6 Q. You wouldn't expect it?

7 A. No.

8 Q. And just to clarify, you signed this Named Driver
9 Exclusion Form naming your husband on April 2nd, 2009;
10 is that correct?

11 A. Correct.

12 Q. And Leslie Todd at the Jim Robertson Agency had
13 explained to you what this form means; is that
14 correct?

15 A. Yes, she did.

16 Q. And since April 2nd, 2009, you have not ever elected
17 to put your husband on the policy; is that correct?

18 A. No.

19 Q. And the accident that we are here about today occurred
20 in July of 2016; is that correct?

21 A. Correct.

22 Q. That is after you had executed this document, signed
23 it; is that correct?

24 A. Okay.

25 MS. CAIELLO: No further questions.

1 Thank you.

2 MS. PROTHRO: Okay.

3 MR. McELVEEN: Thank you, ma'am.

4 MS. PROTHRO: All right. Thank you all.

5 (THERE BEING NO FURTHER QUESTIONS, THE DEPOSITION WAS
6 CONCLUDED AT 7:39 P.M.).

1 STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER) CERTIFICATE

I, Doris Tompkins Brown, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, certify that I did have Sharon Prothro appear before me commencing at 7:17 P.M. on December 2, 2019 at the offices of the Bryan Law Firm of SC, LLP, 17 East Calhoun Street, Sumter, South Carolina; that the witness was duly sworn and cautioned to tell the truth; that the foregoing pages constitute a true and accurate transcript of the testimony given at that time and place.

I hereby certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 4th of January, 2020.

Doris Tompkins Brown, CVR
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission expires: 4-02-2025

Policy number: 55178995-0

SHARON PROTHRO

Page 5 of 12

Named Driver Exclusion Election

You have named the following persons as excluded drivers under this policy:

RICHARD PROTHRO

Date of Birth: May 6, 1955

No coverage is provided for any claim arising from an accident or loss involving a motorized vehicle being operated by an excluded person. This includes any claim for damages made against any named insured, resident relative, or any other person or organization that is vicariously liable for an accident or loss arising out of the operation of a motorized vehicle by the excluded driver.

This form must be signed by the named insured.

I understand and agree that this Named Driver Exclusion election shall apply to this policy and any renewal, reinstatement, substitute, amended, altered, modified or replacement policy with this company or any affiliated company, unless a named insured revokes this election.

I declare that either the driver's license of the excluded persons named in this Named Driver Exclusion election has been turned into the Department of Motor Vehicles, or that an appropriate policy of liability insurance or other security as may be authorized by law has been properly executed in the name of the person to be excluded.

Signature of named insured

Date

X *Sharon J. Prothro*

4-2-09

Form 9330 SC (04/07)

Claim # 165237341



Continued

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
 COUNTY OF SUMTER) CIVIL ACTION NO.: 2019-CP-43-00105

Progressive Northern Insurance Company,)

Plaintiff,)

vs.)

Gloria Oliver, Richard Prothro and Sharon)
 Prothro,)

Defendants.)

Deposition of RICHARD PROTHRO, taken by Doris
 Tompkins Brown, Certified Verbatim Reporter and Notary
 Public in and for the State of South Carolina, commencing
 at 7:39 P.M. on December 2, 2019 at the offices of The
 Bryan Law Firm, LLP, 17 East Calhoun Street, Sumter, South
 Carolina.

APPEARANCES

ON BEHALF OF THE PLAINTIFF: Sarah E. Caiello
 Murphy and Grantland, P.A.
 Post Office Box 6648
 Columbia, South Carolina

ON BEHALF OF THE DEFENDANT:
 (Gloria Oliver) J. Thomas McElveen, III
 The Bryan Firm, LLP
 Post Office Box 2038
 Sumter, South Carolina

Doris Tompkins Brown

COPY

Certified Verbatim Reporter
 Post Office Box 853
 Sumter, South Carolina 29151
 (803) 499-2434

COPY



Also present but not

participating) :

Jeffrey M. Crudup

Clarkson Walsh & Coulter

Post Office Box 2219

Mount Pleasant, S.C.

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EXHIBIT INDEX

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* * * * *

—
(COURT REPORTER'S NOTE: --- INDICATES INTERRUPTION,
INCOMPLETE PHRASE, TRAILING OFF, INCOMPLETE SENTENCE)

**PROGRESSIVE NORTHERN INSURANCE COMPANY VS.
GLORIA OLIVER, RICHARD PROTHRO AND SHARON PROTHRO**

1 The deposition of Richard Prothro is being taken
2 pursuant to Notice and in accordance with the South
3 Carolina Rules of Civil Procedure and Amendments as adopted
4 by the Supreme Court which shall control the taking of said
5 deposition and its use thereof.

6 Counsel, with the specific consent of the witness,
7 waives the reading and signing of the deposition prior to
8 the time it is filed with the Court.

9 (Richard Prothro, having been duly sworn, testifies as
10 follows:)

11 EXAMINATION BY MS. CAIELLO:

12 Q. Mr. Prothro, I am Sarah Caiello. I just introduced
13 myself to your wife. I didn't get a chance to meet
14 you earlier before the deposition started. But I'm
15 one of the lawyers in the case involving the insurance
16 policy that we are here about today; okay?

17 A. Okay.

18 Q. And again, I will ask Mr. McElveen if we can stipulate
19 that he has heard all the instructions and ---

20 MR. MCELVEEN: Yeah, he has heard the
21 instructions of a deposition twice now.

22 I think once with him ---

23 MR. PROTHRO: Yes.

24 MR. MCELVEEN: -- and once for his
25 wife, and unless he has any questions,

1 I'm certainly okay with that.

2 MS. CAIELLO: Thank you.

3 Q. Do you have any questions about how we are going to
4 proceed here?

5 A. No.

6 Q. Okay. You are doing great with the verbal answers.
7 I appreciate that. And I just want to follow up about
8 the policy, your wife's Progressive policy; okay?

9 A. Okay.

10 Q. I believe the testimony earlier was that you were with
11 her in April of 2009 when she took out the policy?

12 A. Yes.

13 Q. Do you recall that?

14 A. Yes.

15 Q. Okay. And you went into the local agency here and met
16 with Leslie Todd; is that correct?

17 A. Yes.

18 Q. Okay. Did you have your own car insurance at that
19 time?

20 A. No.

21 Q. Why not?

22 A. I didn't have a car.

23 Q. Okay. Did you also -- did you have a License at that
24 time?

25 A. No.

- 1 Q. Why not?
- 2 A. It was suspended.
- 3 Q. Okay. Why was it suspended?
- 4 A. DUI.
- 5 Q. Okay. But you went with your wife, Ms. Prothro, to
- 6 take out the Progressive policy in 2009?
- 7 A. Yes.
- 8 Q. Okay. Were you there when Leslie explained that you
- 9 would be excluded from that policy?
- 10 A. Yes.
- 11 Q. What do you recall of that conversation?
- 12 A. That I would be -- what's the word?
- 13 Q. Excluded?
- 14 A. Excluded from the policy.
- 15 Q. Okay. Do you know what that means?
- 16 A. Yes.
- 17 Q. What does that mean?
- 18 A. The insurance wouldn't cover me.
- 19 Q. Okay. Does that -- okay. When was your Driver's
- 20 License suspended?
- 21 A. About ten years ago.
- 22 Q. Okay. But it was excluded -- I'm sorry -- it was
- 23 suspended by April of 2009?
- 24 A. Yes.
- 25 Q. Okay. I'm going to hand you -- it is the exact same

1 document we looked at earlier, that you were shown
2 earlier and your wife has been shown and I'm just
3 going to show it to you as well.

4 MS. CAIELLO: It will be Plaintiff's
5 Exhibit One.

6 COPY OF DRIVER EXCLUSION ELECTION FORM
7 MARKED PLAINTIFF'S EXHIBIT NUMBER ONE.

8 Q. You can look over that and let me know when you are
9 ready; I'm going to ask you a couple questions.

10 A. Okay.

11 Q. Okay. Have you ever seen this document before --
12 before today?

13 A. Yes.

14 Q. When have you seen it?

15 A. When she took out the insurance.

16 Q. In April of 2009?

17 A. Yes.

18 Q. Okay. So, are -- is this your name, Richard Prothro,
19 at the top?

20 A. Yes.

21 Q. And your date of birth is May 6, 1955?

22 A. Yes.

23 Q. That is listed there?

24 A. Yes.

25 Q. Is that your wife's signature down at the bottom where

1 it says Sharon G. Prothro?

2 A. Yes.

3 Q. Okay. And that date is April 2nd, 2009; is that
4 correct?

5 A. Yes.

6 Q. Okay. And do you see where -- let's see, this last
7 paragraph, I'm going to read that first little bit:
8 "I declare that either the Driver's License of the
9 excluded persons named in this Driver -- Named Driver
10 Exclusion Election has been turned into the
11 Department of Motor Vehicles" -- do you see where that
12 is?

13 A. Yes.

14 Q. And you agree that you did not have a Driver's License
15 at that time because it was suspended?

16 A. Right.

17 Q. And do you see right under your name where it is
18 listed here at the top, that next paragraph where it
19 says, "No coverage is provided for any claim arising
20 from an accident or loss involving a motorized vehicle
21 being operated by an excluded person"?

22 A. Yes.

23 Q. Do you agree that the accident that occurred in July
24 of 2016 involved a vehicle that you were operating?

25 A. Yes.

- 1 Q. And you agree that this form names you as an excluded
2 driver?
- 3 A. Yes.
- 4 Q. That same sentence I just read, "No coverage provided
5 for any claim arising out of an accident or loss
6 involving a motorized vehicle," does that specify any
7 particular vehicle or does it just say -- any or a
8 motorized vehicle?
- 9 A. Any.
- 10 Q. Do you know if your wife has ever done away with this
11 form and added you to her car insurance policy?
- 12 A. No, she hasn't.
- 13 Q. So, since 2009, your wife has not put you on her car
14 insurance policy?
- 15 A. No.
- 16 Q. Okay. Do you ever ask anyone when you get in a car
17 with them if they have car insurance on their car?
- 18 A. No.
- 19 Q. Do you think most people do?
- 20 A. No.
- 21 Q. Okay. Do you ever volunteer to anyone whether you
22 have car insurance or not?
- 23 A. No.
- 24 Q. Do you think most people do?
- 25 A. No.

- 1 Q. So, at the time of this accident, your wife had
2 already signed this document saying you were not going
3 to be on the car insurance; correct?
- 4 A. Yes.
- 5 Q. The accident occurred -- sorry -- she signed this form
6 in 2009; is that correct?
- 7 A. Right.
- 8 Q. And this accident occurred in 2016?
- 9 A. Yes.
- 10 Q. And between 2009 and 2016, she had never put you on
11 her car insurance policy?
- 12 A. No.
- 13 Q. And you were aware that you were an excluded driver?
- 14 A. Yes.
- 15 Q. I am going to ask you this -- one of the same
16 questions I asked her, too. Do you recall anyone
17 coming to your house on January 28th, 2019, this year,
18 around 6:30 at night?
- 19 A. Yes.
- 20 Q. You recall them giving you some paperwork?
- 21 A. Yes.
- 22 Q. Do you know what -- whether that was about the lawsuit
23 with the car insurance policy or the lawsuit with the
24 car wreck?
- 25 A. I don't recall.

1 Q. But you do recall getting that paperwork?

2 A. Yes.

3 Q. Okay.

4 MS. CAIELLO: I think that is
5 all I have.

6 MR. McELVEEN: Okay.

7 EXAMINATION BY MR. MCELVEEN:

8 Q. Just a few follow-up questions for you, Mr. Prothro.
9 We are on the home stretch here, okay, because I asked
10 you a lot of questions earlier in your first
11 deposition related to the car wreck. Do you also
12 understand now that this deposition is not for the car
13 wreck case that Ms. Oliver has brought against you and
14 your wife?

15 A. Yes.

16 Q. You understand why we are taking this deposition right
17 now?

18 A. Yes.

19 Q. It has got to do with a lawsuit that Progressive
20 Insurance Company brought against you, your wife and
21 my client, Ms. Oliver; is that correct?

22 A. I understand it now.

23 Q. When did you come to understand that?

24 A. In here while we were doing this.

25 Q. Okay. And so, when you -- when you were served with

- 1 something around January 28th, 2019, what did you
2 think that was?
- 3 A. I don't know. I didn't read it.
- 4 Q. Okay. And are you aware that Progressive Insurance
5 Company has -- has asked that you and your wife be
6 held in default as a result of the action that they
7 brought against you?
- 8 A. I -- yeah, I think so.
- 9 Q. When did you learn that?
- 10 A. Seem like I read it on one of those papers.
- 11 Q. Okay. Do you have an attorney for -- do you have an
12 attorney for the lawsuit that has been brought against
13 you ---
- 14 A. No.
- 15 Q. I've got to finish the question. Do you have an
16 attorney for the lawsuit that has been brought against
17 you by Progressive Insurance Company?
- 18 A. No.
- 19 Q. You don't. Okay. But you do have one for the lawsuit
20 that my client brought against you and against your
21 wife; correct?
- 22 A. No, we don't have any.
- 23 Q. Okay. But you -- but you do have a lawyer for the
24 lawsuit that my client has brought against you and Ms.
25 Prothro; is that correct?

1 A. Yes.

2 Q. That is Mr. Crudup; right?

3 A. Yes.

4 Q. You do have a lawyer for that?

5 A. Right.

6 Q. Okay. And so, the things that Ms. Caiello just asked
7 you about in the testimony you just gave to her, do
8 you have any reason to believe that my client, Gloria
9 Oliver, would have known about any of that on July
10 24th, 2016?

11 A. No.

12 Q. Okay. And just to be clear on that again, did you
13 ever tell Gloria Oliver on July 24th, 2016 or any time
14 prior to that that you were not a covered driver for
15 that ---

16 A. No.

17 Q. -- Contour?

18 A. No.

19 Q. Okay. To your knowledge, did anybody ever tell Gloria
20 Oliver on July 24th, 2016 or prior to that that you
21 weren't covered on that policy?

22 A. No.

23 Q. Okay. And do you -- do you think before she got in
24 that car, Gloria Oliver should have asked you if you
25 were a covered driver?

1 A. I don't think so.

2 Q. Is that a normal thing to ask somebody before you get
3 in a car?

4 A. No.

5 Q. Because you knew Ms. Oliver; right?

6 A. Right.

7 Q. And she knew who you were; right?

8 A. Right.

9 Q. And wasn't her uncle already in the car before she got
10 in there?

11 A. Yes.

12 Q. Did he get in the car and ask you questions about your
13 insurance on ---

14 A. No.

15 Q. Do you think he knew that you weren't a covered driver
16 when he got in the vehicle?

17 A. Well, he knew my License was suspended.

18 Q. Okay. Did he -- did he know that you weren't a
19 covered driver?

20 A. I don't think so.

21 Q. Do you think he knew anything about that Exhibit that
22 has been handed -- handed to you as Plaintiff's
23 Exhibit Number One?

24 A. No.

25 Q. Okay.

1 MR. MCELVEEN: That is all I've got.

2 MS. CAIELLO: I think that's it.

3 Thank you so much.

4 (THERE BEING NO FURTHER QUESTIONS, THE DEPOSITION WAS
5 CONCLUDED AT 7:50 P.M.).
6
7

1 STATE OF SOUTH CAROLINA)
) CERTIFICATE
COUNTY OF SUMTER)

I, Doris Tompkins Brown, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, certify that I did have Richard Prothro appear before me commencing at 7:39 P.M. on December 2, 2019 at the offices of the Bryan Law Firm of SC, LLP, 17 East Calhoun Street, Sumter, South Carolina; that the witness was duly sworn and cautioned to tell the truth; that the foregoing pages constitute a true and accurate transcript of the testimony given at that time and place.

I hereby certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 4th of January, 2020.

Doris Tompkins Brown, CVR
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission expires: 4-02-2025

Named Driver Exclusion Election

You have named the following persons as excluded drivers under this policy:

RICHARD PROTHRO

Date of Birth: May 6, 1955

No coverage is provided for any claim arising from an accident or loss involving a motorized vehicle being operated by an excluded person. This includes any claim for damages made against any named insured, resident relative, or any other person or organization that is vicariously liable for an accident or loss arising out of the operation of a motorized vehicle by the excluded driver.

This form must be signed by the named insured.

I understand and agree that this Named Driver Exclusion election shall apply to this policy and any renewal, reinstatement, substitute, amended, altered, modified or replacement policy with this company or any affiliated company, unless a named insured revokes this election.

I declare that either the driver's license of the excluded persons named in this Named Driver Exclusion election has been turned into the Department of Motor Vehicles, or that an appropriate policy of liability insurance or other security as may be authorized by law has been properly executed in the name of the person to be excluded.

Signature of named insured

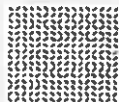
Date

X *Sharon J. Prothro*

7-2-09

Form 9330 SC (04/07)

Claim # 165237341



Continued

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO: 2019-CP-43-00105

Progressive Northern Insurance Company,

PLAINTIFF,

vs.

Gloria Oliver, Richard Prothro and Sharon
Prothro,

DEFENDANTS.

**ORDER GRANTING DEFENDANT
GLORIA OLIVER'S CROSS-MOTION
FOR SUMMARY JUDGMENT**

This matter comes before the Court upon Defendant Gloria Oliver's Cross-Motion for Summary Judgment.

A hearing was previously conducted on September 14, 2020 to address Plaintiff Progressive Northern Insurance Company's Motion for Summary Judgment. Appearing on behalf of the Plaintiff was Sarah E. Caiello, Esquire. Appearing on behalf of the Defendant Gloria Oliver was J. Thomas McElveen, III, Esquire. After hearing the arguments of counsel and reviewing the pleadings and submissions, including legal memoranda, the Court informed counsel for Defendant Gloria Oliver and for Plaintiff Progressive Northern Insurance Company that Plaintiff's Motion for Summary Judgment was denied.

Counsel for Plaintiff and for Defendant Gloria Oliver subsequently requested a status conference with the Court, which was held on October 23, 2020, at which time counsel informed the Court that based upon the Court's ruling denying Plaintiff's Motion for Summary Judgment and in the interest of judicial economy, the parties would consent to the Court applying the October 6, 2020 ruling to a Cross-Motion for Summary Judgment to be filed on behalf of Defendant Gloria

Oliver, thereby dismissing the instant declaratory judgment action filed by Plaintiff Progressive Northern Insurance Company, with prejudice.

FACTS

This action arises as the result of a July 24, 2016 automobile collision which occurred in the parking lot of a business located at or near 615 Bultman Drive in Sumter, South Carolina. At the time of the collision, Defendant Gloria Oliver (hereinafter “Oliver”) was riding as a guest passenger in a 1996 Ford Contour automobile which was owned by Defendant Sharon Prothro and was being operated by Defendant Richard Prothro, and which was insured by Plaintiff Progressive Northern Insurance Company (hereinafter “Progressive”) under policy number 55178995. Defendant Oliver has alleged, among other things, that Defendant Richard Prothro drove the automobile in reverse at a high rate of speed, struck a natural area of the parking lot, collided with two trees, and struck multiple vehicles in the parking lot before finally coming to a stop. Defendant Oliver sustained bodily injury as a result of this incident.

Progressive subsequently denied separate liability and uninsured motorist (UM) claims which were submitted on behalf of Defendant Oliver, who seeks compensation for damages under Progressive’s policy number 55178995.

On July 19, 2018, Defendant Oliver filed a Summons and Complaint in the Sumter County Court of Common Pleas naming Defendant Richard Prothro and Defendant Sharon Prothro as defendants (Gloria D. Oliver vs. Richard Prothro and Sharon Prothro, Case No.: 2018-CP-43-1323) in a tort action underlying the instant declaratory judgment action.

Personal service upon Defendant Richard Prothro and Defendant Sharon Prothro was perfected on August 3, 2018.

On September 4, 2018, an Answer was filed on behalf of Defendants Richard Prothro and Sharon Prothro in the underlying tort action.

On December 5, 2019, Defendant Oliver perfected service upon Progressive as UM carrier through the South Carolina Department of Insurance, pursuant to S.C. Code Ann. § 38-77-150.

An Answer was filed on behalf of Progressive on December 16, 2019 in the underlying tort action.

Progressive filed the instant declaratory judgment action on January 23, 2019, alleging, in part, that Progressive automobile insurance policy number 55178995, issued to Defendant Sharon Prothro, does not provide any coverage for claims arising out of the July 24, 2016 automobile collision, and perfected personal service upon Defendant Oliver on March 16, 2019.

Defendant Oliver filed a timely Answer to Progressive's Complaint in the instant declaratory judgment action on May 15, 2019.

On September 13, 2019, Progressive filed a Motion for Summary Judgment, and filed a Memorandum in Support of its Motion for Summary Judgment on October 21, 2019, along with attached exhibits.

On December 2, 2019, six depositions were taken of the three Defendants in the instant action. The deposition of Gloria D. Oliver (as Plaintiff in the underlying tort action) and the depositions of Richard Prothro and Sharon Prothro (as Defendants in the underlying tort action) were obtained, as well as depositions of Defendant Oliver, Defendant Sharon Prothro, and Defendant Richard Prothro in the instant declaratory judgment action.

Gloria Oliver gave deposition testimony on December 2, 2019 stating that she had neither a driver's license nor a vehicle, and that she relied on others for transportation. She testified that she knew Richard Prothro, but did not know Sharon Prothro. She testified that on the morning of

the July 24, 2016 collision, Richard Prothro visited her home along with Defendant Oliver's uncle, and that she was going to make breakfast for them when she realized that she was missing some ingredients required to prepare the meal. She testified that Richard Prothro agreed to drive her to a Wal-Mart Neighborhood Market in Sumter, South Carolina to get the things she needed, and that she had finished her shopping when the collision subject of the underlying tort action occurred. Gloria Oliver testified that she understood the 1996 Ford Contour involved in the wreck which was insured by Progressive to belong to Richard Prothro, that Richard Prothro had said that the vehicle was his, that she had observed him driving it in the past, and that she had never spoken with Sharon Prothro about the automobile. Further, Gloria Oliver stated that she had never received any indication that there might not be insurance coverage on the vehicle as of July 24, 2016.

On December 2, 2019, Richard Prothro testified that he had not had a driver's license in ten years and that his license had originally been suspended due to driving under the influence conviction(s), but that he continued to drive a vehicle insured by Progressive some 168 times between April 2, 2009 (the date on which Progressive contends that Richard Prothro was listed as an excluded driver on automobile insurance policy number 55178995) and July 24, 2016 (the date of the collision which involved Defendant Oliver). Richard Prothro testified that he had ready access to keys to the vehicle by virtue of the fact that the keys were typically left on the dresser in his and Sharon Prothro's bedroom, and that his wife, Sharon Prothro, was aware that he was driving over the course of this period roughly one-third of the time. Richard Prothro testified that he was consuming alcohol the evening prior to the July 24, 2016 wreck, and that he had also consumed a half pint of vodka within the three-hour period immediately preceding the wreck. He testified that Sharon Prothro was aware that he was consuming alcohol on the evening prior to the wreck, and that she was aware that he was driving the 1996 Ford Contour on the morning of the

July 24, 2016 wreck. Richard Prothro testified that he did not believe that Gloria Oliver would have any way to know that he was an excluded driver under the Progressive policy in question, and that he did not think that Gloria Oliver should have asked him if he was a covered driver prior to getting into the 1996 Ford Contour on the morning of July 24, 2016.

On December 2, 2019, Sharon Prothro testified that she was aware that her husband Richard Prothro's driver's license had been suspended for over ten years, but that he continued to drive and that when he was driving the 1996 Ford Contour, she was aware of it. She agreed that Richard Prothro had driven on some 168 occasions between April 2, 2009 and July 24, 2016. Sharon Prothro testified that the keys to the vehicle were not hidden some place in the Prothros' house, but, rather, they remained in the same place most of the time. She testified that she was aware that Richard Prothro had been drinking alcohol the night before the July 24, 2016 collision and during the morning of the collision, and that she believed him to be under the influence of alcohol when he left the Prothros' residence around 9:00 a.m. or 10:00 a.m. on the morning of the wreck. Nonetheless, Sharon Prothro testified that she did nothing to prevent Richard Prothro from taking the 1996 Ford Contour on the morning of the July 24, 2016 wreck other than telling him to stop. Sharon Prothro testified that she believed Gloria Oliver to have been a guest passenger in her automobile at the time of the July 24, 2016 collision, and that Gloria Oliver would have no way to know that Richard Prothro was an excluded driver pursuant to her automobile insurance coverage with Progressive which was applicable on the date of the collision.

On September 11, 2020, Defendant Oliver filed a Memorandum in Opposition to Progressive's Motion for Summary Judgment, along with attached exhibits.

A hearing on Progressive's Motion for Summary Judgment was held before the Court on September 14, 2020, immediately after which the Court took the matter under advisement.

On October 6, 2020, the Court notified the attorneys for Plaintiff Progressive and Defendant Oliver that Progressive's Motion for Summary Judgment was denied.

On October 23, 2020, a status conference was conducted with the Court at the request of counsel for Plaintiff Progressive and counsel for Defendant Oliver. At the status conference, counsel for Plaintiff Progressive and counsel Defendant Oliver proposed to the Court that, based upon the Court's denial of Progressive's Motion for Summary Judgment and in the interest of judicial economy, counsel for Defendant Oliver would file a Cross-Motion for Summary Judgment to which the Court's October 6, 2020 ruling would be applied with the consent of both Defendant Oliver and Plaintiff Progressive. The Court agreed to have the October 6, 2020 ruling apply to a Cross-Motion for Summary Judgment to be filed on behalf of Defendant Oliver.

On July 12, 2021, Defendant Oliver filed a Notice of Motion and Cross-Motion for Summary Judgment, along with a Memorandum in Support of Defendant Oliver's Cross-Motion for Summary Judgment, including attached exhibits.

STANDARD OF REVIEW

Summary judgment is appropriate when the pleadings, depositions, affidavits, and discovery on file show there is no genuine issue of material fact such that the moving party must prevail as a matter of law. Rule 56(c), South Carolina Rules of Civil Procedure; Legette v. Piggly Wiggly, Inc., 368 S.C. 576, 579, 629 S.E.2d 375, 376 (Ct.App. 2006). "When determining if any triable issues of fact exist, the evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party." Fleming v. Rose, 350 S.C. 488, 567 S.E.2d 860 (2002). In order to withstand a motion for summary judgment in cases applying the preponderance of the evidence burden of proof, the non-moving party is only required to submit a mere scintilla of evidence. Hancock v. Mid-South Mgmt. Co., Inc., 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009).

When evidence is susceptible to more than one reasonable inference, the issue should be submitted to the jury, rather than resolved at summary judgment stage. Murphy v. Tyndall, 384 S.C. 50, 681 S.E. 2d 28 (S.C. App. 2009). Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law. Gadson v. Hembree, 364 S.C. 316, 613 S.E.2d 533 (2005), citing Middleborough Horizontal Property Regime Council of Co-Owners v. Montedison, 320 S.C. 470, 465 S.E.2d 765 (Ct.App.1995). Even where there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied. Montgomery v. CSX Transportation, Inc., 376 S.C. 37, 656 S.E.2d 20 (2008). However, once a party moving for summary judgment carries the initial burden of showing an absence of evidentiary support for the nonmoving party's case, the nonmoving party may not simply rest on mere allegations or denials contained in the pleadings. NationsBank v. Scott Farm, 320 S.C. 299, 303, 465 S.E.2d 98, 100 (Ct.App. 1995). In order to resist a motion for summary judgment, the nonmoving party must come forward with specific facts showing genuine issues necessitating trial. Id.

Since summary judgment is a drastic remedy, it should be cautiously invoked so no person will be improperly deprived of a trial of the disputed issues. Murphy v. Tyndall, at 54, 30.

FINDINGS

Defendant Gloria Oliver's Cross-Motion for Summary Judgment on the grounds that there is no genuine issue as to any material fact and that Defendant Gloria Oliver is entitled to judgment as a matter of law is granted.

In the Complaint filed by Plaintiff Progressive, Progressive prays for a declaration that Progressive has no duty to defend or indemnify Defendant Richard Prothro nor Defendant Sharon Prothro, its named insured, under the liability coverage with respect to any claims arising

out of the July 24, 2016 collision, nor that Progressive has any duty to cover or compensate Defendant Oliver under any uninsured or alleged underinsured motorist bodily injury or property damage coverage provided by Progressive pursuant to policy number 55178995.

However, the facts, evidence, and testimony in this case and in the underlying tort action related to the instant declaratory judgment action dictate that Gloria Oliver was a guest passenger in the 1996 Ford Contour which was insured by Progressive, owned by Sharon Prothro, and was being driven by Richard Prothro at the time of the July 24, 2016 wreck, even by the admission of Progressive's named insured, Sharon Prothro.

S.C. Code Ann. § 38-77-30(7) provides that "[i]nsured means the named insured and, while resident of the same household, the spouse of any named insured and relatives of either, while in a motor vehicle or otherwise, and any person who uses with the consent, expressed or implied, of the named insured the motor vehicle to which the policy applies and a guest in the motor vehicle to which the policy applies or the personal representative of any of the above."

When Progressive denied Defendant Gloria Oliver's liability claim on the basis of a policy exclusion, the 1996 Ford Contour was deemed uninsured, at-fault motorist Defendant Richard Prothro deemed an uninsured driver, and Gloria Oliver's resulting claim deemed a UM claim. Citing Gunnels v. American Liberty Ins. Co., 251 S.C. 242, 247, 161 S.E.2d 822, 824 (1968), the Supreme Court of South Carolina held in Unisun Insurance Company v. Schmidt, 339 S.C. 362, 529 S.E.2d 280 (2000) that the uninsured motorist statute "is remedial in nature, enacted for the benefit of injured persons, and is to be liberally construed so that the purpose intended may be accomplished."

In the opinion which is most factually analogous to the instant action, Auto Owners Ins. Co. v. Rollison, 378 S.C. 600, 663 S.E.2d 484 (2008), the Supreme Court of South Carolina

reversed a ruling from the circuit court that a commercial general liability policy did not provide coverage for the underlying motor vehicle collision as a matter of law because that policy contained an exclusion for bodily injury arising out of the use of the automobile. In Rollison, the Supreme Court opined, in part, that a passenger can only rely on the driver's representations regarding his status as a permissive user, and that a determination of whether a passenger qualifies as a "guest" under S.C. Code Ann. § 38-77-30(7) must be viewed from the passenger's perspective. Rollison, at 611, 489-490; the Court also pointed out that according to Unisun, "an invited passenger of a non-permissive driver may, but not necessarily, qualify as a 'guest' for the purposes of uninsured motorist coverage." Id., at 611, 490.

Further, the Rollison opinion states that, "We believe that to define 'guest' otherwise would lead to an absurd result which would require a passenger to specifically inquire whether the driver either owned the vehicle or had permission from the named insured to drive the vehicle. Clearly, such an interpretation would be contrary to the intention of the Legislature as well as the remedial purpose and inclusive nature of the uninsured motorist statute." Id., at 612, 490. Requiring or imposing a duty upon an innocent guest passenger such as Gloria Oliver, along with any of the countless number of innocent guest passengers in South Carolina under the same or similar circumstances, to make specific inquiries as to whether or not a host driver is listed on a vehicle's policy as an excluded driver would be equally absurd as a matter of public policy, and the South Carolina General Assembly chose to require no such inquiry or investigation of an insured in the fourth category of § 38-77-30(7) – a guest passenger such as Gloria Oliver.

The evidence and testimony in this case and in the underlying tort action overwhelmingly dictate that on the morning of July 24, 2016, Gloria Oliver was riding as a guest passenger in the 1996 Ford Contour insured by Progressive by virtue of the invitation and permission of Richard

Prothro, whom she reasonably believed to be in rightful possession (and even ownership) of the automobile, whom she believed had the authority to allow her to ride in the vehicle, and whom she had absolutely no way of knowing was a purported excluded driver under the Progressive automobile insurance policy which covered the vehicle. An endorsement or adoption of Progressive's position in this case would impose an absurdly burdensome duty upon countless innocent guest passengers in South Carolina – many of whom must rely on others for transportation – by requiring them to ask a litany of questions of countless host drivers and to demand production and inspection of an applicable automobile insurance company prior to stepping into any automobile as a guest passenger, while also requiring them to possess beyond a rudimentary understanding of South Carolina automobile insurance law and/or applicability of an automobile insurance policy's coverage. With very specific regard to UM coverage extending to innocent guest passengers such as Gloria Oliver, this is precisely the type of “absurd” result the Supreme Court of South Carolina has previously prohibited in the Unisun and Rollison opinions.

While the named driver exclusion endorsement cited by Plaintiff Progressive is valid and specifically authorized by statute, I find the Supreme Court of South Carolina's reasoning in Rollison, and Unisun to be dispositive. In both cases, the court found that a passenger was entitled to uninsured motorist coverage even though the driver did not have permission to drive the vehicle, thus rendering the vehicle uninsured. In addition, the excluded driver statute, § 38-77-30, specifically refers to “a policy of **liability** insurance.” The Court finds that the South Carolina Court of Appeals' decision in Nationwide Insurance Company of America v. Knight, 428 S.C. 451, 835 S.E.2d 538 (Ct.App. 2019) is distinguishable in that Knight dealt with underinsured motorist (UIM) coverage, which is not mandatory in South Carolina. Uninsured motorist coverage is, of course, mandatory in an amount equal to the minimum liability limits.

Therefore, this Court will not extend the exclusion to UM coverage.

Incidentally, the Court recognizes that there is a split of authority among other states as to whether a named driver exclusion acts to prohibit a passenger from recovering UM coverage. However, most of the states that have held the exclusion prevents a passenger from recovering UM have done so on the basis that the exclusion constitutes a statutorily permitted rejection of uninsured motorist coverage, or a contractually permitted waiver of UM coverage. Unlike those states, there is no option in South Carolina to reject or waive uninsured motorist coverage. This Court is not aware of a case from any jurisdiction involving both mandatory UM coverage and a statutorily authorized named driver exclusion, as we have in the instant action. The Court therefore relies on the permissive use cases where the court has held that UM coverage is available to an innocent passenger even where there is no liability coverage.

For these reasons, the Court finds that Plaintiff Progressive has presented no evidence to suggest that it has no duty to cover or compensate Defendant Oliver, a guest passenger, under uninsured motorist bodily injury coverage provided by Progressive under policy number 55178995; to the contrary and pursuant to South Carolina law, this coverage is available to Defendant Oliver and applicable to her claims for damages sustained as a result of the July 24, 2016 collision discussed herein.

CONCLUSION

For the reasons stated herein, Defendant Gloria Oliver's Cross-Motion for Summary Judgment is granted and Plaintiff Progressive Northern Insurance Company's Complaint is thereby dismissed with prejudice pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, as the Court finds that uninsured motorist (UM) coverage provided by Progressive Northern Insurance Company pursuant to policy number 55178995 is applicable to claims for

damages sustained by Defendant Gloria Oliver as a result of an automobile collision which occurred on July 24, 2016, and that Progressive Northern Insurance Company's named driver exclusion shall not prevent Defendant Gloria Oliver, an innocent guest passenger, from recovering UM coverage provided by Progressive Northern Insurance Company pursuant to its aforementioned policy.

IT IS THEREFORE ORDERED, ASJUDGED, AND DECREED that the Defendant Gloria Oliver's Cross-Motion for Summary Judgment is GRANTED, and this case is forever ended.

IT IS SO ORDERED.

The Honorable Kristi F. Curtis
Presiding Judge of the Third Judicial Circuit

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF SUMTER

CIVIL ACTION NO: 2019-CP-43-105

Progressive Northern Insurance Company,

PLAINTIFF,

vs.

Gloria Oliver, Richard Prothro, and Sharon
Prothro,

DEFENDANTS.

**DEFENDANT GLORIA OLIVER'S
MEMORANDUM IN OPPOSITION TO
PLAINTIFF PROGRESSIVE
NORTHERN INSURANCE COMPANY'S
MOTION FOR SUMMARY JUDGMENT**

TO: WESLEY B. SAWYER, ESQUIRE, JOHN R. MURPHY, ESQUIRE, AND SARAH E. CAIELLO, ESQUIRE, ATTORNEYS FOR PLAINTIFF PROGRESSIVE NORTHERN INSURANCE COMPANY:

Defendant Gloria Oliver ("Oliver"), in opposition to Plaintiff Progressive Northern Insurance Company's Motion for Summary Judgment, states as follows:

FACTS

On July 24, 2016, Defendant Oliver was riding as a guest passenger in a 1996 Ford Contour automobile which was owned by Defendant Sharon Prothro and being operated by Defendant Richard Prothro, and which was insured by Progressive Northern Insurance Company ("Progressive"). This incident occurred in the parking lot of the Wal-Mart Neighborhood Market located at or near 615 Bultman Drive in Sumter, South Carolina. Defendant Richard Prothro, who upon information and belief was operating the automobile while under the influence of alcohol and/or intoxicating substances and while under suspension of his driver's license, recklessly drove the automobile in reverse at a high rate of speed, struck a natural area of the parking lot, collided

with two trees, and struck multiple vehicles in the parking lot before finally coming to a stop. Defendant Oliver sustained bodily injury as a result of this incident.

The South Carolina Department of Motor Vehicles Form “FR-10” Notice of Requirement and the South Carolina Traffic Collision Report Form generated by the investigating officers with the City of Sumter Police list Defendant Richard Prothro as the driver of the 1996 Ford automobile, Defendant Sharon Prothro as its owner, and Progressive as the insurance company providing automobile insurance coverage.

Shortly after receiving notice of Defendant Oliver’s liability claim, Progressive issued a letter dated September 26, 2016 denying the liability claim, which is attached as Exhibit A. In a January 24, 2017 letter attached as Exhibit B, undersigned counsel for Defendant Oliver requested a written response from Progressive confirming Progressive’s denial of the claim as well as the grounds on which Progressive denied Defendant Oliver’s claim as the liability insurance company providing coverage on the vehicle involved in the July 24, 2016 collision.

In a letter dated February 6, 2017, attached as Exhibit C, Progressive stated that “no coverage would be provided for any claim for damages against any named insured” due to the fact that Defendant Richard Prothro was an excluded driver.

In reply, undersigned counsel for Defendant Oliver submitted an “Uninsured Motorist Claim / Demand” dated January 8, 2018 (attached as Exhibit D) and pursuant to the Supreme Court of South Carolina’s ruling in Auto Owners Insurance Company v. Rollison, 378 S.C. 600, 663 S.E.2d 484 (2008), pointing out to Progressive that since Defendant Oliver was a guest passenger of driver Defendant Richard Prothro, and since Progressive had previously denied Defendant Oliver’s liability claim, Defendant Richard Prothro was thereby rendered an uninsured motorist for purposes of liability coverage as it pertained to the July 24, 2016 collision.

In a January 16, 2018 letter, a copy of which is attached as Exhibit E, Progressive denied Defendant Oliver's uninsured motorist (UM) claim.

On July 19, 2018, Defendant Oliver filed a Summons and Complaint in the Sumter County Court of Common Pleas naming Defendant Richard Prothro and Defendant Sharon Prothro as defendants (Gloria D. Oliver vs. Richard Prothro and Sharon Prothro, Case No.: 2018-CP-43-1323) in a tort action underlying the instant declaratory judgment action.

Personal service upon Defendant Richard Prothro and Defendant Sharon Prothro was perfected on August 3, 2018.

On September 4, 2018, Jeffrey M. Crudup, Esquire filed an Answer on behalf of Defendants Richard Prothro and Sharon Prothro in the underlying tort action.

On December 5, 2019, Defendant Oliver perfected service upon Progressive as UM carrier through the South Carolina Department of Insurance, pursuant to S.C. Code Ann. § 38-77-150.

Jeffrey M. Crudup, Esquire filed an Answer on behalf of Progressive on December 16, 2019 in the underlying tort action.

Progressive filed the instant declaratory judgment action on January 23, 2019, alleging, in part, that Progressive automobile insurance policy number 55178995-0, issued to Defendant Sharon Prothro, does not provide any coverage for claims arising out of the July 24, 2016 automobile collision, and perfected personal service upon Defendant Oliver on March 16, 2019.

Defendant Oliver filed a timely Answer to Progressive's Complaint in the instant declaratory judgment action on May 15, 2019.

On December 2, 2019, six depositions were taken of the three Defendants in the instant action. The deposition of Gloria D. Oliver (as Plaintiff in the underlying tort action, a copy of which is attached as Exhibit F) and the depositions of Richard Prothro and Sharon Prothro (as

Defendants in the underlying tort action, copies of which are attached as Exhibit G and Exhibit H, respectively) were obtained, as well as depositions of Defendant Oliver, Defendant Sharon Prothro, and Defendant Richard Prothro in the instant declaratory judgment action, attached respectively as Exhibit I, Exhibit J, and Exhibit K.

On December 2, 2019, Gloria Oliver testified that she did not have a driver's license nor a vehicle, and that she relied on others for transportation. She testified that she knew Richard Prothro, but did not know Sharon Prothro. She testified that on the morning of the July 24, 2016 collision, Richard Prothro visited her home along with Defendant Oliver's uncle, and that she was going to make breakfast for them when she realized that she was missing some ingredients required to prepare the meal. She testified that Richard Prothro agreed to drive her to the Wal-Mart Neighborhood Market to get the things she needed, and that she had finished her shopping when the collision subject of the underlying tort action occurred. Gloria Oliver testified that she understood the 1996 Ford Contour involved in the wreck which was insured by Progressive to belong to Richard Prothro, that Richard Prothro had said that the vehicle was his, that she had observed him driving it in the past, and that she had never spoken with Sharon Prothro about the automobile. Further, Gloria Oliver stated that she had never received any indication that there might not be insurance coverage on the vehicle as of July 24, 2016.

On December 2, 2019, Richard Prothro testified that he had not had a driver's license in ten years and that his license had originally been suspended due to driving under the influence conviction(s), but that he continued to drive a vehicle insured by Progressive some 168 times between April 2, 2009 (the date on which Progressive contends that Richard Prothro was listed as an excluded driver on automobile insurance policy number 55178995-0) and July 24, 2016. Richard Prothro testified that he had ready access to keys to the vehicle by virtue of the fact that

the keys were typically left on the dresser in his and Sharon Prothro's bedroom, and that Sharon Prothro was aware that he was driving over the course of this period roughly one-third of the time. Richard Prothro testified that he was consuming alcohol the evening prior to the July 24, 2016 wreck, and that he had also consumed a half pint of vodka within the three-hour period preceding the wreck. He testified that Sharon Prothro was aware that he was consuming alcohol on the evening prior to the wreck, and that she was aware that he was driving the 1996 Ford Contour on the morning of the July 24, 2016 wreck. Richard Prothro testified that he did not believe that Gloria Oliver would have any way to know that he was an excluded driver under the Progressive policy in question, and that he did not think that Gloria Oliver should have asked him if he was a covered driver prior to getting into the 1996 Ford Contour on the morning of July 24, 2016.

On December 2, 2019, Sharon Prothro testified that she was aware that Richard Prothro's driver's license had been suspended for over ten years, but that he continued to drive and that when he was driving the 1996 Ford Contour, she was aware of it. She agreed that Richard Prothro had driven on some 168 occasions between April 2, 2009 and July 24, 2016. Sharon Prothro testified that the keys to the vehicle were not hidden some place in the Prothros' house, but, rather, they remained in the same place most of the time. She testified that she was aware that Richard Prothro had been drinking alcohol the night before the July 24, 2016 collision and during the morning of the collision, and that she believed him to be under the influence of alcohol when he left the Prothros' residence around 9:00 a.m. or 10:00 a.m. on the morning of the wreck. Nonetheless, Sharon Prothro testified that she did nothing to prevent Richard Prothro from taking the 1996 Ford Contour on the morning of the July 24, 2016 wreck other than telling him to stop. Sharon Prothro testified that she believed Gloria Oliver to have been a guest passenger in her automobile at the time of the July 24, 2016 collision, and that Gloria Oliver would have no way to know that Richard

Prothro was an excluded driver pursuant to her automobile insurance coverage with Progressive which was applicable on the date of the collision.

STANDARD

Summary judgment is appropriate when the pleadings, depositions, affidavits, and discovery on file show there is no genuine issue of material fact such that the moving party must prevail as a matter of law. Rule 56(c), South Carolina Rules of Civil Procedure. “When determining if any triable issues of fact exist, the evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party.” Fleming v. Rose, 350 S.C. 488, 567 S.E.2d 860 (2002). In order to withstand a motion for summary judgment in cases applying the preponderance of the evidence burden of proof, the non-moving party is only required to submit a mere scintilla of evidence. Hancock v. Mid-South Mgmt. Co., Inc., 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009).

When evidence is susceptible to more than one reasonable inference, the issue should be submitted to the jury, rather than resolved at summary judgment stage. Murphy v. Tyndall, 384 S.C. 50, 681 S.E. 2d 28 (S.C. App. 2009). Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law. Gadson v. Hembree, 364 S.C. 316, 613 S.E.2d 533 (2005), citing Middleborough Horizontal Property Regime Council of Co-Owners v. Montedison, 320 S.C. 470, 465 S.E.2d 765 (Ct.App.1995). Even where there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied. Montgomery v. CSX Transportation, Inc., 376 S.C. 37, 656 S.E.2d 20 (2008).

Since summary judgment is a drastic remedy, it should be cautiously invoked so no person will be improperly deprived of a trial of the disputed issues. Murphy v. Tyndall, at 54, 30.

ARGUMENT

The facts, evidence, and testimony in the underlying tort action related to the instant declaratory judgment action dictate that Gloria Oliver was a guest passenger in the 1996 Ford Contour which was insured by Progressive, owned by Sharon Prothro, and being driven by Richard Prothro at the time of the July 24, 2016 wreck, even by the admission of Progressive's named insured, Sharon Prothro.

S.C. Code Ann. § 38-77-30(7) provides that "[i]nsured means the named insured and, while resident of the same household, the spouse of any named insured and relatives of either, while in a motor vehicle or otherwise, and any person who uses with the consent, expressed or implied, of the named insured the motor vehicle to which the policy applies *and a guest in the motor vehicle to which the policy applies* or the personal representative of any of the above [emphasis added]."

When Progressive denied Defendant Gloria Oliver's liability claim on the basis of a policy exclusion, the 1996 Ford Contour was deemed uninsured, at-fault motorist Defendant Richard Prothro deemed an uninsured driver, and Gloria Oliver's resulting claim deemed a UM claim. Citing Gunnels v. American Liberty Ins. Co., 251 S.C. 242, 247, 161 S.E.2d 822, 824 (1968), the Supreme Court of South Carolina held in Unisun Insurance Company v. Schmidt, 339 S.C. 362, 529 S.E.2d 280 (2000) that the uninsured motorist statute "is remedial in nature, enacted for the benefit of injured persons, and is to be liberally construed so that the purpose intended may be accomplished."

In the opinion which is most factually analogous to the instant action, Auto Owners Ins. Co. v. Rollison, 378 S.C. 600, 663 S.E.2d 484 (2008), the Supreme Court of South Carolina reversed a ruling from the circuit court that a commercial general liability policy did not provide coverage for the underlying motor vehicle collision as a matter of law because that policy

contained an exclusion for bodily injury arising out of the use of the automobile. In Rollison, the Supreme Court opined, in part, that *a passenger can only rely on the driver's representations regarding his status as a permissive user, and that a determination of whether a passenger qualifies as a "guest" under S.C. Code Ann. § 38-77-30(7) must be viewed from the passenger's perspective.* Rollison, at 611, 489-490; the Court also pointed out that according to Unisun, "an invited passenger of a non-permissive driver may, but not necessarily, qualify as a 'guest' for the purposes of uninsured motorist coverage [emphasis added]." Id., at 611, 490.

Further, the Rollison opinion states that, "We believe that to define 'guest' otherwise would lead to an absurd result which would require a passenger to specifically inquire whether the driver either owned the vehicle or had permission from the named insured to drive the vehicle. *Clearly, such an interpretation would be contrary to the intention of the Legislature as well as the remedial purpose and inclusive nature of the uninsured motorist statute* [emphasis added]." Id., at 612, 490. Requiring or imposing a duty upon an innocent guest passenger such as Gloria Oliver, along with any of the countless number of innocent guest passengers in South Carolina under the same or similar circumstances, to make specific inquiries as to whether or not a host driver is listed on a vehicle's policy as an excluded driver would be equally absurd as a matter of public policy, and the South Carolina General Assembly chose to require no such inquiry or investigation of an insured in the fourth category of § 38-77-30(7) – a guest passenger such as Gloria Oliver.

The evidence and testimony in this case and in the underlying tort action overwhelmingly dictate that on the morning of July 24, 2016, Gloria Oliver was riding as a guest passenger in the 1996 Ford Contour insured by Progressive by virtue of the invitation and permission of Richard Prothro, whom she reasonably believed to be in rightful possession (and even ownership) of the automobile, whom she believed had the authority to allow her to ride in the vehicle, and whom she

had absolutely no way of knowing was a purported excluded driver under the Progressive automobile insurance policy which covered the vehicle. An endorsement or adoption of Progressive's position in this case would impose an absurdly burdensome duty upon countless innocent guest passengers in South Carolina – many of whom must rely on others for transportation – by requiring them to ask a litany of questions of countless host drivers and to demand production and inspection of an applicable automobile insurance company prior to stepping into any automobile as a guest passenger, while also requiring them to possess beyond a rudimentary understanding of South Carolina automobile insurance law and/or applicability of an automobile insurance policy's coverage. With very specific regard to UM coverage extending to innocent guest passengers such as Gloria Oliver, this is precisely the type of absurd result the Supreme Court of South Carolina has previously prohibited in the Unisun and Rollison opinions.

CONCLUSION

It is clear from the evidence and the testimony of the parties in the present case and in the underlying tort action and viewing the evidence and all reasonable inferences in the light most favorable to Defendant Gloria Oliver that there is more than a mere scintilla of evidence in which a trial judge or jury could infer that Defendant Gloria Oliver was an innocent guest passenger in the 1996 Ford Contour automobile insured by Progressive when she was injured in the July 24, 2016 wreck, and that Gloria Oliver was an eligible insured for uninsured motorist coverage pursuant to the Progressive automobile insurance policy which covered the vehicle on that date. Defendant Gloria Oliver therefore requests that the Court deny Progressive's Motion for Summary Judgment.

Signature page immediately follows

BRYAN LAW FIRM OF SC, L.L.P.

By: s:/J. Thomas McElveen, III
J. Thomas McElveen, III
Attorney for Defendant Gloria Oliver
17 East Calhoun Street
Post Office Box 2038
Sumter, South Carolina 29151
(803) 775-1263
tmcelveen@bryanlaw.com

Sumter, South Carolina
September 11, 2020

PROGRESSIVE CLAIMS
2624 CORPORATE CENTER DRIVE
SUITE 20
MYRTLE BEACH, SC 29577

PROGRESSIVE

Underwritten By:
Progressive Northern Insurance
Company

Claim Number: 16-5237341
Loss Date: July 24, 2016
Document Date: September 26, 2016
Page 1 of 1

BRYAN LAW FIRM
17 E CALHOUN ST
SUMTER, SC 29151

claims.progressive.com

Track the status and details of your claim
email your representative or report a
new claim.

Important information about your claim

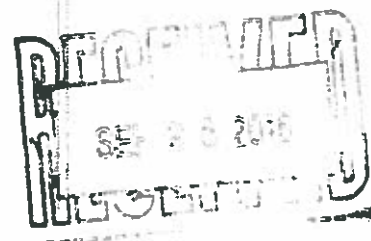
I've finished reviewing your claim. Unfortunately, after investigating all the available information, I was unable to find valid coverage for this incident and we won't be able to pay your claim. If you have your own insurance carrier, you may want to check with them to see if you have coverage under that policy.

If you have any questions or additional information that might help me find coverage for this incident, please call me at the number below.

Thank you,

DANIELLE GAMACHE
Claims Department
1-843-213-3912
1-800-PROGRESSIVE (1-800-776-4737)
Fax: 1-843-448-7239
dgamach1@progressive.com
Fax: 252-271-1211

ELECTRONICALLY FILED - 2020 Sep 11 1:38 PM - SUMTER - COMMON PLEAS - CASE#2019CP4300105



BRYAN LAW FIRM OF SC, L.L.P.

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January 24, 2017

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* Certified Circuit Court Mediator

* Certified Family Court Mediator

* Fellow, American Academy of Matrimonial Lawyers

Progressive Claims
2024 Corporate Centre Dr., Ste. 201
Myrtle Beach, SC 29577
ATTN: Danielle Gamache

RE: Our client:	Gloria Oliver
Your Insured Driver:	Richard Prothro
Your Insured:	Sharon Prothro
Claim No.:	16-5237341
Date of wreck:	7/24/2016

Dear Ms. Gamache:

I represent Gloria Oliver in the above mentioned automobile wreck.

My current understanding is that Progressive intends to deny my client's claim based on your position that Richard Prothro, who was driving the at-fault vehicle which was owned by your insured, did not have permission from the owner/your insured, Sharon Prothro, to drive the vehicle.

This position seems somewhat curious in light of the fact that Mr. Prothro claims a Sumter address while Ms. Prothro also claims a Sumter address, and to my knowledge the vehicle was not reported to authorities as stolen on or around July 24, 2016. If I am mistaken about this and you are in possession of an incident report which would memorialize that Ms. Prothro's vehicle was indeed stolen, I hereby request that you provide me with a copy of same.

In any event, if it remains Progressive's position to deny this claim, I hereby request a letter from Progressive which confirms your denial as well as the grounds on which Progressive denies my client's claim as the liability insurance company for the vehicle which was at fault in the above-captioned collision.

I will look forward to hearing from you in this regard.

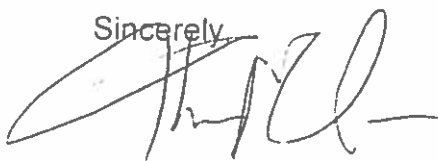
Signature on following page



State Farm
Page Two
January 24, 2017

With kind regards, I am

Sincerely,

A handwritten signature in black ink, appearing to read 'J. McElveen, III', written over the word 'Sincerely,'.

J. THOMAS McELVEEN, III

JTMcIII/ewn
Enclosures

500514 13774 1 MB 0 423 CLTR501Q 050 013774

BRYAN LAW FIRM
17 E CALHOUN ST
SUMTER, SC 29151



Underwritten By:
Progressive Northern Insurance
Company

Claim Number: 16-5237341
Loss Date: July 24, 2016
Document Date: February 6, 2017
Page 1 of 1

claims.progressive.com

Track the status and details of your claim,
e-mail your representative or report a
new claim.

Claim Information

I am writing in response to your letter dated January 24, 2017. In your letter you asked for the grounds on which our coverage denial was decided.

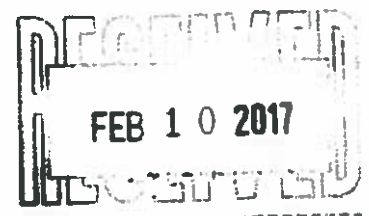
The police report confirms that Richard Prothro was operating the 1996 Ford Contour at the time of the accident. When our insured, Sharon Prothro, purchased her policy on April 2, 2009 she decided to exclude Richard Prothro from the policy. She agreed and acknowledged that no coverage would be provided for any claim for damages against any named insured arising out of the operation of a motorized vehicle by the excluded driver, Richard Prothro.

Unfortunately since Mr. Prothro was operating the vehicle at the time of loss Progressive will be unable to honor any coverage for any claim arising out of this accident.

DANIELLE GAMACHE
Claims Department
1-843-213-3912
1-800-PROGRESSIVE (1-800-776-4737)
Fax: 1-843-448-7239

Form Z587 XX (01/08) - SC

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January 8, 2018

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* Certified Circuit Court Mediator
* Certified Family Court Mediator
* Fellow, American Academy of Matrimonial Lawyers

Progressive

Attn: Danielle Gamache
2024 Corporate Centre Dr., Ste. 201
Myrtle Beach, SC 29577

RE: **Our Client:** Gloria Oliver
Your Insured: Sharon Prothro
Your Driver: Richard Prothro
Your Claim No.: 16-5237341
Date of Loss: July 24, 2016

UNINSURED MOTORIST CLAIM / DEMAND

Dear Ms. Gamache:

I am writing pursuant to Progressive's decision to deny liability coverage on behalf of your insured driver and/or your insured in connection with the above-referenced automobile wreck which was caused by Richard Prothro on or about July 24, 2016.

As you know, this case involves a wreck that occurred at approximately 9:35 a.m. in the parking lot of the Wal-Mart Neighborhood Market located at 615 Bultman Drive in Sumter, South Carolina. This incident occurred when Richard Prothro, who was driving a vehicle which was insured by Progressive at the time, traveled southbound in reverse at a high rate of speed and struck two (2) trees and four (4) parked vehicles. As you also know, my client Gloria Oliver was a guest passenger in the vehicle being operated by Mr. Prothro, which was insured by Progressive.

I am now ready to discuss settlement of the bodily injury claim of Gloria Oliver. Since Progressive has previously denied the liability claim filed on behalf of my client, I am now submitting this demand under the uninsured motorist (UM) portion of your policy, as Ms. Oliver was a guest passenger in your insured vehicle at the time this wreck occurred. Further, since Progressive has denied my client's liability claim, Mr. Prothro has been rendered an uninsured motorist for purposes of liability coverage as it pertains to this matter. I am thereby submitting this uninsured motorist claim pursuant to the Supreme Court of South Carolina's ruling in *Auto Owners Insurance Company v. Rollison*, 378 S.C. 600, 663 S.E.2d 484 (2008). I am enclosing a copy of the *Auto Owners Insurance Company v. Rollison* opinion for your review. Additionally, enclosed for your review are copies of Ms. Oliver's medical bills and medical records reflecting the treatment she received for the injuries suffered in this wreck. I have listed below the amounts of the medical bills we are claiming:



Progressive
January 8, 2018
Page Two

Gloria Oliver's bills are:

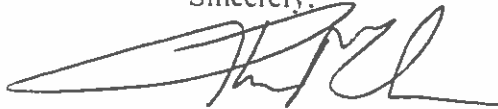
Palmetto Health Tuomey	\$897.00
Professional Services of Tuomey	\$545.00
Physicians Health & Injury Clinic	\$1,072.00
TOTAL	\$2,514.00

Taking into account the specials in this case, the pain and suffering factor involved, and the likelihood of an award of punitive damages due to the reckless conduct of the at-fault driver in this case, at this time I would be willing to recommend settlement of my client's claim in exchange for a tender of the uninsured motorist (UM) policy limits provided by Progressive and applicable to the instant claim, which I understand to be \$25,000.00/\$50,000.00.

As soon as you have reviewed all of the above information, I would appreciate you contacting me to discuss settlement of this claim.

With kind regards, I am,

Sincerely,



J. THOMAS McELVEEN, III

TM/ewn

PROGRESSIVE CLAIMS
2024 CORPORATE CENTRE DRIVE
SUITE 201
MYRTLE BEACH, SC 29577

BRYAN LAW FIRM
JOSEPH T MCELVEEN
17 E CALHOUN ST
SUMTER, SC 29151

PROGRESSIVE

Gloria Oliver

Underwritten By:
Progressive Northern Insurance
Company

Claim Number: 16-5237341
Loss Date: July 24, 2016
Document Date: January 16, 2018
Page 1 of 1

claims.progressive.com

Track the status and details of your claim,
e-mail your representative or report a
new claim.

Claim Information

Please be advised that I am in receipt of your Uninsured Motorist Claim Demand for the above-mentioned loss. As previously advised, due to the excluded driver operating the insured's vehicle at the time of loss, no coverage will apply under this policy.

If your client has her own auto insurance, a claim should be made to her insurance carrier.

Please contact me with any questions. Thank you.

DANIELLE GAMACHE
Claims Department
1-843-213-3912
1-800-PROGRESSIVE (1-800-776-4737)
Fax: 1-843-448-7239
dgamach1@progressive.com

Form Z587 • • (01/06) • SC

ELECTRONICALLY FILED - 2020 Sep 11 1:38 PM - SUMTER - COMMON PLEAS - CASE#2019CP4300105



STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF SUMTER) C/A NO.: 2018-CP-43-1323

Gloria D. Oliver,)
Plaintiff,)
vs.)
Richard Prothro and Sharon Prothro,)
Defendants.)

Deposition of GLORIA D. OLIVER, taken by Doris
Tompkins Brown, Certified Verbatim Reporter and Notary
Public in and for the State of South Carolina, commencing
at 3:10 P.M. on December 2, 2019 at the offices of The
Bryan Law Firm, LLP, 17 East Calhoun Street, Sumter, South
Carolina.

APPEARANCES

ON BEHALF OF THE PLAINTIFF: Thomas E. McElveen, III
The Bryan Law Firm, LLP
Post Office Box 2038
Sumter, South Carolina

ON BEHALF OF THE DEFENDANTS: Jeffrey M. Crudup
Clarkson Walsh & Coulter
Post Office Box 2219
Mount Pleasant, S. C.

Doris Tompkins Brown

COPY

Certified Verbatim Reporter
Post Office Box 853
Sumter, South Carolina 29151
(803) 499-2434

COPY



ON BEHALF OF PROGRESSIVE

NORTHERN INSURANCE

COMPANY

Sarah E. Caiello

Murphy & Grantland, P.A.

Post Office Box 6648

Columbia, South Carolina

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* * * * *

EXHIBIT INDEX

Named Driver Exclusion Election Pl. Ex. 1

* * * * *

(COURT REPORTER'S NOTE: --- INDICATES INTERRUPTION,
INCOMPLETE PHRASE, TRAILING OFF, INCOMPLETE SENTENCE)

GLORIA D. OLIVER VS.
RICHARD PROTHRO AND SHARON PROTHRO

ELECTRONICALLY FILED - 2020 Sep 11 1:38 PM - SUMTER - COMMON PLEAS - CASE#2019CP4300105

1 The deposition of Gloria Oliver is being taken
2 pursuant to Notice and in accordance with the South
3 Carolina Rules of Civil Procedure and Amendments as adopted
4 by the Supreme Court which shall control the taking of said
5 deposition and its use thereof.

6 Counsel, with the specific consent of the witness,
7 waives the reading and signing of the deposition prior to
8 the time it is filed with the Court.

9 (Gloria Oliver, having been duly sworn, testifies as
10 follows:)

11 EXAMINATION BY MR. CRUDUP:

12 Q. Good afternoon, Ms. Oliver.

13 A. Good afternoon.

14 Q. How you doing?

15 A. Good.

16 Q. Good. We met a minute ago. For the record, my name
17 is Jeff Crudup. I'm going to take your deposition
18 today. Have you ever been deposed before? Have you
19 ever been in a situation like this?

20 A. No.

21 Q. Okay. I have a couple quick rules that will probably
22 make the whole process go a little bit faster for you.
23 First, please try to make your answers verbal. It is
24 just hard for her to write down when you are not
25 speaking. I know when you are nodding your head, but

**GLORIA D. OLIVER VS.
RICHARD PROTHRO AND SHARON PROTHRO**

1 she doesn't; okay?

2 A. Okay.

3 Q. So, if I get on you and say -- oh, was that a yes or
4 a no, I'm not trying to be mean, it's just I need her
5 -- I need a clear record; okay?

6 A. (Nods head affirmatively).

7 Q. Is that a yes?

8 A. Yes. Yes.

9 Q. That's fine. Two, you are going to know the answers to
10 some of the questions before I'm done with it. And
11 you will probably -- I will probably know some of
12 your answers before you are done with them. Just try
13 to let me finish my whole question because if we are
14 talking over each other, the same thing; it is just
15 hard for her to take it down. Okay?

16 A. Yes.

17 Q. Three, I am required by South Carolina to tell you now
18 that you are under oath, if you have questions, you
19 have to address them to me as opposed to your
20 attorney; okay?

21 A. Yes.

22 Q. And fourth, well, two more things. One, if you need
23 to take a break -- I don't think this is going to take
24 all that long; I apologize for being late myself --
25 but if you need to take a break, just let me know; okay?

1 A. Yes.

2 Q. And last, if I ask you a question and you answer it,
3 I am going to assume you understood the question; is
4 that fair?

5 A. Okay.

6 Q. Okay. I don't want to hear anything about what you
7 might have talked about with your attorney. But other
8 than speaking to your attorney, what did you do to
9 prepare today before you came here today?

10 A. What I did today before I came here?

11 Q. What did you do to prepare for your deposition; did
12 you look at any records, did you talk to anyone other
13 than your attorney?

14 A. I haven't speak to no one.

15 Q. Okay. Did you look at your medical records?

16 A. No, not today, no.

17 Q. Okay. Where are you from originally?

18 A. Sumter, South Carolina.

19 Q. Have you lived here all your life?

20 A. Yes, sir.

21 Q. Did you ever move away?

22 A. No.

23 Q. Okay.

24 A. Take trips, went visiting, but I never moved.

25 Q. Okay.

**GLORIA D. OLIVER VS.
RICHARD PROTHRO AND SHARON PROTHRO**

1 A. I've been on trips.

2 Q. Okay. So, at the -- and when I say "this accident,"
3 I'm going to be talking about the accident that we are
4 -- that forms the basis of this lawsuit; is that fair?

5 A. Uh-huh (affirmative response).

6 Q. Do you understand that?

7 A. Yes, sir.

8 Q. Okay. So, at the time of this accident, where were
9 you living?

10 A. At 43 Harry Avenue, Sumter, South Carolina.

11 Q. How long have you lived there?

12 A. Seven years.

13 Q. So, and I might have asked that in artfully. So, you
14 have been there for the last seven years?

15 A. Yeah, I was staying there when this accident take
16 place. That's where I was living at for seven years.

17 Q. Oh, and that's -- so, my question is, had you been
18 there for seven years before the accident or have you
19 been there for the last seven years?

20 A. No. I've been there total in all seven years.

21 Q. And before you lived there, where did you live?

22 A. Okay. I move -- I'm at my -- my new address. I move
23 from 43 Harry Avenue to 216 Thomas Drive. I moved
24 from there. I moved to Thomas Drive over there off of
25 Alice Drive.

1 Q. When did you move?

2 A. I move from 43 -- I can't -- I'm not -- I can't really
3 remember the year. But it was like in Two Thousand --
4 this is 2019; so, it was like around about the --
5 about the '16, '17, '18, -- '19. About -- about
6 between '17 and '16. 2017 or '16.

7 Q. Okay.

8 A. Either one of those. And I move from 243 Harrison
9 Street and I moved at 216 Thomas Drive off of Alice
10 Drive.

11 Q. I understand.

12 A. Uh-huh (affirmative response).

13 Q. So, you were living at 43 Harry at the time of this
14 accident?

15 A. Yes, I was living right there.

16 Q. All right. Who else were you living with at the time?

17 A. I was in my own -- that was my apartment.

18 Q. Okay.

19 A. Uh-huh (affirmative response).

20 Q. Did you have a car or truck at the time?

21 A. No, I don't have a vehicle at all. I don't even have
22 a driving License.

23 Q. That was going to be my next question.

24 A. No.

25 Q. Do you have any children?

- 1 A. Yes.
- 2 Q. How many children do you have?
- 3 A. I have one son.
- 4 Q. How old is he?
- 5 A. He's fifteen (15).
- 6 Q. And you said fifteen (15)?
- 7 A. Yes, sir.
- 8 Q. And where does he live?
- 9 A. With me.
- 10 Q. And so, did he live with you at the time of this
- 11 accident?
- 12 A. Yes, sir, he was there.
- 13 Q. Okay.
- 14 A. But he was not in the car with me at the time. He was
- 15 at the house. That was in the morning time when they
- 16 took me to Wal-Mart to pick up some breakfast that
- 17 morning.
- 18 Q. I understand. So, your son was living with you. Was
- 19 anybody else living with you at the time?
- 20 A. No. Uh-uh (negative response). Just me and my son
- 21 lived there.
- 22 Q. Okay.
- 23 A. No.
- 24 Q. Did you go to high school in Sumter?
- 25 A. Yes, sir.

1 Q. Did you graduate from high school?

2 A. No.

3 Q. What was the highest grade you got to?

4 A. Eleventh grade.

5 Q. And what year would you have graduated if ---

6 A. Class of '85.

7 Q. What made you leave school?

8 A. Well, I got in some trouble with some girls and they
9 kicked me out for the rest of the year, and they had
10 me going to PAL and, you know, things got messed up
11 between there.

12 Q. So, you never went back?

13 A. No, I never went back.

14 Q. Did you ever take any classes like GED classes, that
15 kind of thing?

16 A. Yeah, I have, but -- at Tech, but I didn't finish. I
17 was going to the Resource Center.

18 Q. Okay. Did you ever take the GED test?

19 A. No, I didn't take it. Uh-uh (negative response).

20 Q. Okay. So, do you work now; are you employed?

21 A. No.

22 Q. When was the last time you were employed?

23 A. I haven't worked like since -- what's this -- 2019 --
24 over ten years, I haven't worked.

25 Q. Okay. So, prior -- well, what was the last job that

1 you did have; what do you remember doing?

2 A. I was doing custodian.

3 Q. Where was that?

4 A. Thomas Sumter Academy private school on 521.

5 Q. And when you say custodian, what kind of -- what were
6 you actually doing?

7 A. Custodian.

8 Q. Yeah, what does that mean exactly?

9 A. Cleaning classrooms, cleaning the bathrooms; janitor
10 work.

11 Q. Got you.

12 A. Cleaning.

13 Q. And what made you stop working as a custodian?

14 A. I got in an accident and I hurt my leg. I broke my --
15 I missed and fell and got a knee replacement.

16 Q. So, that would have been about -- you said about ten
17 years ago?

18 A. I got the knee replacement in 2000; so, uh-huh
19 (affirmative response).

20 Q. Did you work after the knee replacement?

21 A. No, I couldn't.

22 Q. All right. So, if you got the knee replacement in
23 2000, is it fair to say you haven't worked for the
24 last nineteen (19) years or so?

25 A. Maybe 2002 that I think that I got the knee

1 replacement. I think it was 2002, because I had my
2 baby in 2004. So, I got that in 2002, the knee
3 replacement. Uh-huh (affirmative response).

4 Q. And where did this -- you said you fell?

5 A. I fall.

6 Q. Where did you fall?

7 A. On my -- coming out my auntie's trailer. I had on
8 some heels, and my leg went the opposite way and I
9 broke -- knock my knee bone out of place; so, they had
10 to give me a knee replacement.

11 Q. Do you remember where -- where you had the knee
12 replacement surgery?

13 A. I had it at Tuomey in Sumter.

14 Q. Okay. Prior to working as a custodian, did you work
15 anywhere else?

16 A. No, I didn't do nothing else after that.

17 Q. Did you do anything before you were a custodian?

18 A. No.

19 Q. How long did you work as a custodian?

20 A. I did about a year and a half out there.

21 Q. And you said prior to that, you didn't do -- that was
22 ---

23 A. No, because of my leg and that's -- that's it. I
24 didn't do anything.

25 Q. Okay. Did -- have you ever had any jobs other than

1 custodian at the school?

2 A. No, I didn't had no more jobs since then.

3 Q. No, I'm not saying since then. I'm saying ever.

4 A. No. No. No.

5 Q. Okay.

6 A. No.

7 Q. If we have a trial, I need to know if you are related
8 to anybody on the jury. So, other than the name
9 Oliver, are you related to people in Sumter County
10 with other last names either by blood or by marriage?

11 A. Yeah, I'm related to people in Sumter.

12 Q. Okay. What are -- what are some of the last names
13 that you are related to?

14 A. To -- I related to the Cummings, the Taylor's and the
15 Anderson's.

16 Q. And they are all in Sumter?

17 A. Uh-huh (affirmative response).

18 Q. Okay.

19 A. Yes, sir.

20 Q. Have you ever been involved in any car accidents other
21 than the one we are here to talk about today?

22 A. Yes.

23 Q. Okay. How many accidents were you in prior to the car
24 accident we are here to talk about today?

25 A. This is the second one.

1 Q. So, the one we are here to talk about today is the
2 second one?

3 A. Yeah, this is the second one we're talking about
4 today.

5 Q. Okay. So, you had one accident before that?

6 A. Yes.

7 Q. Okay. When was that about?

8 A. 2009.

9 Q. Okay. What happened in 2009?

10 A. My sister let me drive her car to go to the
11 laundromat. Well, I shouldn't have been driving; I
12 didn't have a driving License and -- but I still took
13 it upon myself and went -- to go on to the dryer on
14 Guignard, me and my son, and that's when the lady --
15 when I was going to take the left turn to turn, and
16 she ran the red light and knocked the whole fender off
17 the car.

18 Q. Was it -- are you saying it was the front part or the
19 back part?

20 A. She did the front. I was going to turn, ---

21 Q. Uh-huh (affirmative response).

22 A. -- and she came straight across; she ran the light.

23 Q. Okay.

24 A. That's when she hit me.

25 Q. And did she hit the front part of your car?

1 A. She hit the front part. She knocked the whole front
2 part off.

3 Q. Did the police come to the scene?

4 A. Yes.

5 Q. Did the ambulance and EMS come to the scene?

6 A. Yes.

7 Q. Did you go to the hospital?

8 A. Yes.

9 Q. What hospital did you go to?

10 A. Tuomey.

11 Q. And what did you hurt in that accident?

12 A. In that accident, I didn't really got -- I like --
13 just like my neck in that accident and just my knee --
14 my leg got like twist up under the steering wheel. In
15 that accident, my baby got -- he start bleeding
16 internally inside. My baby was in the back seat, and
17 he was -- he was like two, three years old during that
18 period of time. I'm not -- and he got pinned up in
19 the back seat; the seat belt like lock him in too
20 tight; so, he had a little urinal infection.

21 Q. So, you said you hurt your neck and you also hurt ---

22 A. My leg.

23 Q. -- your leg. Which leg?

24 A. The -- the leg that I had the surgery on, my left leg.

25 Q. And that was my next question. So, the surgery -- the

- 1 knee replacement you had, that was your left knee?
- 2 A. Yes.
- 3 Q. You said you went to the hospital for that. Did you
- 4 treat with any doctors afterwards; did you go to see
- 5 anyone after the hospital?
- 6 A. Yeah, I went to the -- for my neck, yeah, I was going
- 7 to chiropractors. I went a few times.
- 8 Q. Do you remember which chiropractor you went to?
- 9 A. I went to one on -- did I went to the chiropractor for
- 10 this -- no. I don't think -- I didn't go to
- 11 chiropractor for the neck. I just went and been
- 12 checked out and I got treated at Tuomey Hospital.
- 13 With that -- me and my baby got treated at Tuomey. I
- 14 didn't went to a chiropractor.
- 15 Q. Okay.
- 16 A. I don't remember, recall that I went there.
- 17 Q. Did you seek any treatment for your leg after that?
- 18 A. Only thing, they just give me like some pain pills.
- 19 That's all.
- 20 Q. Okay.
- 21 A. And they treated my baby. They give him some -- some
- 22 liquid medicine and some pills to flush his urine
- 23 because he had a little bit of blood in his urine, and
- 24 they did that.
- 25 Q. Okay. About how long do you think you were at Tuomey

1 at the time; when you went there, how long were up
2 there?

3 A. We were up there about a good four hours because that
4 day we -- when it happened, it was sort of packed in
5 the afternoon. About a good four to three hours we
6 was there.

7 Q. Okay. After this accident, have you ever been
8 involved in any other car accidents?

9 A. No.

10 Q. Okay.

11 A. Uh-huh (affirmative response).

12 Q. As a result of the accident you had, that first -- the
13 first one, ---

14 A. Uh-huh (affirmative response).

15 Q. -- in 2009, ---

16 A. Uh-huh (affirmative response).

17 Q. -- did you file a lawsuit?

18 A. Yes.

19 Q. Do you remember who was your -- who your lawyer was?

20 A. (Points at Mr. McElveen).

21 Q. Mr. McElveen?

22 A. Uh-huh (affirmative response).

23 Q. Got you. Do you remember the name of the person that
24 hit you?

25 A. No, I didn't know all of that. No.

- 1 Q. Was it here in Sumter?
- 2 A. Yes.
- 3 Q. Have you ever filed a Workers' Compensation claim?
- 4 A. No.
- 5 Q. And other than the lawsuit from 2009, have you ever
- 6 filed a lawsuit before?
- 7 A. No.
- 8 Q. Have you ever been a Defendant in a lawsuit?
- 9 A. No.
- 10 Q. We are going to talk about this in greater detail in
- 11 a minute, but can you tell me what parts of your body
- 12 you claim were injured in this accident?
- 13 A. My -- it was below -- it was my back ---
- 14 Q. Uh-huh (affirmative response).
- 15 A. -- and my -- it was -- my back was aching because I
- 16 got -- he was going backwards in the accident. I was
- 17 going like this (witness indicates), but the most part
- 18 was my neck and my leg.
- 19 Q. So, you said your back, your neck and what was ---
- 20 A. And my leg.
- 21 Q. Was it your left leg?
- 22 A. Yes.
- 23 Q. Have you ever injured your back before this accident?
- 24 A. Well, I have. When I had my -- when I had my son, I
- 25 had an epidural that the needle stick in my spine, ---

1 Q. An epidural?

2 A. -- I have an epidural in my back, and so, that really
3 like had me, you know, had my back sort of aching me
4 a little more but until I got in the accident, that's
5 when, you know, I had the more feeling of my body; I
6 start aching.

7 Q. And you told me that you hurt your neck in that 2009
8 accident?

9 A. Basically, I just got, yeah, my neck just like went to
10 the side, and I had to wear a neck brace.

11 Q. Oh, okay.

12 A. Uh-huh (affirmative response).

13 Q. Now, you mentioned you hurt your back. What part of
14 your back are you talking ---

15 A. Be lower -- be lower of my back. It be the lower of
16 my back.

17 Q. So, the lower part of your back?

18 A. Uh-huh (affirmative response).

19 Q. Other than the birth of your son, have you ever been
20 hospitalized for any reason?

21 A. Well, yes.

22 Q. What have you been hospitalized for?

23 A. I was in there -- I was having bad cramps in my
24 stomach and they told me there was too much greasy
25 food, and they had to put me in there for a couple

1 days to give me an IV, you know, and I stayed in there
2 for like three days.

3 Q. Okay.

4 A. Uh-huh (affirmative response).

5 Q. Would that -- was that also at Tuomey?

6 A. That was at Tuomey.

7 Q. Are you on any medications today?

8 A. Yes.

9 Q. What are you on?

10 A. I have high blood, borderline diabetic and
11 cholesterol.

12 Q. Any other medications?

13 A. No.

14 Q. Were you on any medications at the time of this
15 accident?

16 A. No. Uh-uh (negative response). Nope.

17 Q. So, on the day of the accident, where were you going?

18 A. To Wal-Mart.

19 Q. And where had you come from before this?

20 A. Well, he picked me up from my house and I leave my
21 house; they came to my house that morning and I asked
22 them to take me to Wal-Mart.

23 Q. Okay. So, let me -- let me back up for a second. Who
24 -- when you say "they," who picked you up?

25 A. Richard Prothro and my uncle, James Anderson. They

1 was riding together and they came to my house that
2 morning, and when my uncle knock on the door and I let
3 him in, and so -- and I didn't had the right stuff in
4 there. I want to make breakfast for us that morning,
5 but I didn't had all the stuff that I needed. So,
6 that's when I asked Richard Prothro to take me to Wal-
7 Mart.

8 Q. So, why were they coming over in the first place?

9 A. Well, my uncle come by my house. He comes and stops
10 by, and I make breakfast for him in the morning, him
11 and his friends, you know.

12 Q. Okay.

13 A. They stop by like that. They come by and see me.

14 Q. Okay.

15 A. So, I wanted to make some breakfast for them that
16 morning when they came, and I didn't had all the
17 ingredients; so, I asked him to take me to Wal-Mart.

18 Q. Okay. So, you said that -- was it Richard -- let me
19 back up. Have you ever been in Richard's -- driven by
20 Richard before?

21 A. Excuse me?

22 Q. Have you ever been driven by Richard before?

23 A. No, I know -- I knew Richard.

24 Q. Oh, you did.

25 A. Uh-huh (affirmative response).

1 Q. Okay. Had you ever been driven by him; had you ever
2 been in a car when he was driving before?

3 A. No -- yeah, I done ride with Richard before to the
4 store. Yeah, he was gonna take me and my uncle
5 because he's like one of my uncle's friends. He's a,
6 you know, -- and he been around the family.

7 Q. I got you.

8 A. Uh-huh (affirmative response).

9 Q. Okay. So, in your own words, tell me -- tell me what
10 happened.

11 A. With the accident?

12 Q. Uh-huh.

13 A. Okay. Richard came by my house, him and my Uncle
14 James came by the house around about 9:00 o'clock that
15 morning. I was sitting in my living room. They knock
16 on the door. I answered and let my uncle in. And I
17 told them that I -- I don't -- I would -- I said, "I
18 would have make you all some breakfast, but I don't
19 have every -- everything to prepare the meal with."
20 So, I said, "Richard, would you take me to Wal-Mart to
21 pick up a few things from the store?" He said, "Yes,
22 I will take you." So, Richard took me to Wal-Mart.
23 I went inside Wal-Mart to get the things that I
24 needed. So, when I came back out to put my bags in
25 the car, I got on Richard's side in the back seat of

1 the car. And that's when Richard and -- my uncle was
2 in the front seat. So, Richard cranked the car, but
3 he ---

4 Q. I don't mean to -- can I just ask you questions as we
5 are going along?

6 A. Uh-huh (affirmative response).

7 Q. So, you were on the driver's side of the back?

8 A. Yeah. I was on his side in the back.

9 Q. Okay.

10 A. And I put my bags on this side beside me (witness
11 indicates) in the back that I purchased out of Wal-
12 Mart. And I got in the car and Richard cranked the
13 car and everything. I sat back and less than about
14 two -- two minutes, Richard was going -- he had the
15 car in reverse when he should have had it in drive
16 going forward. So, Richard put the car in reverse and
17 mashed the gas and I don't know what take control of
18 him or what caused him to do that, but he started
19 going backwards and he start hitting other cars in the
20 parking lot. So, he hit about three -- he hit about
21 four cars. So, he hit -- when he hit the third car,
22 I jumped out of the back because I already take two --
23 he done hit two cars when I'm back there; so, you
24 know, them yellow things in Wal-Mart, he was like, he
25 back up, he -- he bumped one of those. So, when he

1 did that, that's when I jump out the back seat and,
2 you know, the buggy rack, I grabbed hold when I jump
3 out the back seat of Richard's car because he had a
4 lull and I jump out and I grabbed where the buggies --
5 I grabbed hold on to that, and I must have twist my
6 leg down holding on because I jumped out the vehicle.
7 And that's when the people start come running and one
8 guy ran up to the car and throw the car in park; you
9 know, a guy ran up to the car and he throw it in park.
10 So, when he throw it in park, that's when everybody,
11 the supervisor and the stuff came out of Wal-Mart and
12 they came over to the car. They was asking me was I'm
13 all right because I was sitting on the edge. And my
14 back -- but when he did it because he was hitting them
15 cars and my back was hurting and I had a headache from
16 it, you know, and that's -- I was crying and my bags
17 was all over the ground that I had, you know, from the
18 car because they fall out the car. And a girl that I
19 knew that I used to go to church with, she was there
20 at the store at the time. So, she walk up to me and
21 ask me, "Is you all right, Gloria," and I tell her
22 "no, I'm hurting a little bit. I'm sore." So, that's
23 when she contact -- she had know my family. So, she
24 contact my family and let them knew that I was in an
25 accident at Wal-Mart. So, when I look around, my

1 sister and my niece pull up on me and they helped me
2 off the ground and they took me to Tuomey that -- that
3 morning. That morning, they took me to Tuomey. That
4 was July the 24th. They took me to Tuomey and that's
5 when I got treated for that.

6 Q. Okay. So, let me -- I have a couple questions about
7 what you told me. So, when you said you jumped out;
8 so, you had -- I assume you closed the door before all
9 of this happened; correct?

10 A. I didn't close no door. I just jump out -- I just
11 open the back door because he already ---

12 Q. No, I mean before you -- before the car started in
13 reverse.

14 A. Yes, I had came and got in the car, shut -- closed the
15 door. Ready -- ready to go.

16 Q. Okay. Did you put your seat belt on?

17 A. I didn't have on a seat belt.

18 Q. Okay.

19 A. No.

20 Q. So, when he starts to back up, you said he hits two
21 cars and then you actually get out of the car?

22 A. He hit -- he hit about three cars before I could get
23 out the car because he was going for the fourth car,
24 but I was out the car. And then he hit the yellow --
25 the big yellow stand in Wal-Mart, he backed up and hit

1 that; he bumped that, and that's when I jump out the
2 car and grab on to the buggy holder.

3 Q. And when you were saying -- I'm not understanding that
4 word. You said you grabbed on to what?

5 A. You know like -- you know where they put the carts
6 at, the buggies that's in the Wal-Mart parking lot?

7 Q. Yes.

8 A. So, he was like close up by one of those.

9 Q. Okay.

10 A. And I jump out of it and I hold on to that.

11 Q. Got you.

12 A. Uh-huh (affirmative response).

13 Q. And then when you grabbed that, did he not -- is it at
14 that point where somebody came out and -- and put the
15 car in park?

16 A. Yeah, and that's when a guy -- a guy ran up and reach
17 in the window and throw the car in park. And that's
18 when everybody came over and the next officer pull up
19 on the scene, and they went to talk to him and they
20 spoke to me and they asked me did I want to go with
21 the paramedics, you know, to the -- the Tuomey. So,
22 my sister said, "No, we've got her; we're going to
23 take her straight up there, and that's what they did;
24 they took me straight to Tuomey. We left the scene
25 and went straight to Tuomey.

1 Q. Okay.

2 MR. CRUDUP: I'm going to have to --
3 go off the record a second.

4 (OFF THE RECORD).

5 MR. CRUDUP: We can go back on the
6 record.

7 EXAMINATION BY MR. CRUDUP CONTINUED:

8 Q. Sorry about that. So, I have two questions about the
9 actual accident. You kind of sounded like you were
10 saying -- I guess I wasn't clear -- how many cars do
11 you think were hit before you got out of the car?

12 A. Three.

13 Q. Okay. Was there another car that was hit after you
14 got out or did he hit the something else?

15 A. When I got out, I think he hit another car after I got
16 out.

17 Q. Okay.

18 A. Uh-huh (affirmative response).

19 Q. And you said after the accident, you -- did you talk
20 to the officers there?

21 A. Yeah, I spoke -- well, the officer came and told me --
22 he was asking me was I'm okay, do I need the
23 paramedics or whatever, but at that time, that's when
24 my family all pulled up on the scene and brought me up
25 to Tuomey.

1 Q. Okay. So, did you speak to the officer, though, at
2 the scene?

3 A. Yeah, he asked me, you know, he was asking if I'm all
4 right, do I need a paramedic or whatever. But at the
5 time, my family had already pulled up, and I left with
6 them.

7 Q. Okay. And you said that -- and it sounds like who you
8 were describing was a man; it was a -- was a male
9 officer?

10 A. Yeah, it was a man.

11 Q. Can you describe him for me?

12 A. I don't really remember that offhand. I know ---

13 Q. Tall, short, white, black?

14 A. I think he was -- he was white and he was a short
15 officer. I don't really know. I didn't really glance
16 -- I glance him, but I didn't really look at him.

17 Q. And you said that your family took you to Tuomey?

18 A. Uh-huh (affirmative response).

19 Q. When you said "your family," who specifically took
20 you?

21 A. My niece took me. Uh-huh (affirmative response).

22 Q. And what is your niece's name?

23 A. Adrienne.

24 Q. Do you know what her last name is?

25 A. Yes.

1 Q. What is it?

2 A. Cummings.

3 Q. Do you know where she lives?

4 A. Adrienne is not here anymore. Adrienne is like -- her
5 and her fiance' got together; so, I think they moved
6 down to Atlanta.

7 Q. Okay. Do you still have her phone number?

8 A. No, I haven't -- she's changed numbers so much; so, I
9 haven't speak to Adrienne in about six months since
10 she left with her and her fiance' and her kids. And
11 my sister pass, the one who was on the scene with us
12 that came to get me and that took me to Tuomey, I lost
13 her April the 22nd.

14 Q. Oh, I'm sorry to hear that.

15 A. Yeah, she passed.

16 Q. Could you describe the impact for me? In other words,
17 when he was hitting those cars, could you describe
18 that for me; what did it feel like?

19 A. It was like a boom, boom, you know. Boom. We was
20 going backward, boom. Boom. You know.

21 Q. And you said that your Uncle James was in the front
22 seat?

23 A. Yes.

24 Q. Did he get out of the car as well or did he stay in
25 the car?

1 A. He got -- he got out. He got out after the third car,
2 and when I told you a guy came and throw it in park,
3 that's when James got out. Uh-huh (affirmative
4 response).

5 Q. About how fast do you think you were going when you
6 got out of the -- when you jumped out, how fast was
7 the car going?

8 A. He was going -- he had a little speed because he had
9 his foot on the gas. It seemed like he couldn't move
10 his foot off the gas; so, we was going -- he had a
11 little speed, about a thirty-five (35) or forty (40)
12 speed. I mean, he was going backwards. He had a
13 little speed on him.

14 Q. And when you said he was going backwards, did he go
15 directly back out of his parking spot?

16 A. I meant, where he was parking his car; right. He
17 could have drive forward, but he didn't. He went
18 back, and that's how he hit the other cars going
19 backwards, where the other cars was parked. These
20 cars was parked that he hit.

21 Q. Okay. So, my question is, was he -- did he go
22 straight back or was he turning?

23 A. No, he just went straight. He just back up and went
24 straight back; then we start going from side to side,
25 you know, different level hitting cars, like, you

1 know, side to side.

2 Q. Okay. So, you said that there were family members
3 that you talked to. How -- how did they get there? I
4 probably might have forgotten. How did they get
5 there?

6 A. Talking about my family members?

7 Q. Yes.

8 A. I told you I ran into one of my girlfriends that was
9 at the store that I used to go to church with, and she
10 was at the Wal-Mart during that period of time and she
11 came over and asked me was I'm okay and that's when
12 she contact my sister and my niece.

13 Q. And what is that girlfriend's name?

14 A. That's -- her name is Angie.

15 Q. Do you know what her last name is?

16 A. What's her -- Angie got married. I'm not gonna lie.
17 She married; so, I don't know her married name.

18 Q. Do you know what her phone number is?

19 A. No, I never know. I never -- you know, we see each
20 other from time to time when I do go to church. I
21 don't see her that often, you know.

22 Q. When you said that she called your other family
23 members, ---

24 A. Yeah.

25 Q. -- how did she call?

1 A. She had a cell phone, and Angie called my sister, the
2 one deceased. Angie call her number. She called my
3 sister, Leslie, and told Leslie that Gloria was in an
4 accident at Wal-Mart.

5 Q. Got you. Did you have a cell phone at the time?

6 A. Did I had a cell phone at the time?

7 Q. Uh-huh (affirmative response).

8 A. I had one, but I think it was off during that period
9 of time. Uh-huh (affirmative response). I'm not --
10 I had one. I think it was off. I'm not sure, did I
11 got it back on -- I'm not sure that I got it back on
12 during that period of time. But I did have one.

13 Q. And you said that you went straight from Wal-Mart to
14 Tuomey?

15 A. Yes.

16 Q. What did they do for you at Tuomey?

17 A. Treated me. Give me some pain medicine and an ice-
18 pack and basically give me a prescription to get some
19 Ibuprofen for pains.

20 Q. Did they do any X-rays or any -- any MRIs?

21 A. I think they did an MRI on me, but they didn't do an
22 X-ray. I'm not sure; no, they didn't do an X-ray.

23 Q. Did they tell you what was wrong at the hospital?

24 A. I had my muscles -- I had muscles problem.

25 Q. Like sprains?

1 A. Uh-huh (affirmative response).

2 MR. McELVEEN: Ms. Oliver, try to say
3 yes or no.

4 A. Yes. I'm sorry.

5 Q. After you went to Tuomey, did you seek any medical
6 treatment with anyone else?

7 A. No.

8 Q. So, about how long after the accident was it before
9 your leg started to feel back to the way it was?

10 A. My leg still bothers me right now to today. I'm still
11 having problem with my leg. My leg still ache me.

12 Q. And that was my next question. In what ways does it
13 still bother you?

14 A. Like on the side and in the middle or the front.

15 Q. And have you seen any doctors for your knee?

16 A. Since that period of time?

17 Q. Yes.

18 A. No. No, I didn't went back to the doctor because I
19 was afraid they'll probably want to cut me in that
20 same spot to go back in there.

21 Q. And what about your neck, did that get back to the way
22 it was?

23 A. Yeah, my neck start feeling a little better.

24 Q. How long did it take?

25 A. Maybe for a month I start feeling a little back muscle

1 spasm, and it start back feeling normal.

2 Q. Okay. And what about your lower back, how long did it
3 take for that to get better?

4 A. I'm still having problems with my lower back. Yeah,
5 I'm still having -- I'm having major problems with
6 that. Uh-huh (affirmative response). My back still
7 bother me.

8 Q. After going to Tuomey, did you go to see any doctors
9 for your lower back?

10 A. No, but the doctor that I go to, I told him about my
11 back.

12 Q. What doctor do you go to?

13 A. I go to Family Health Center, and my doctor is Mr.
14 Richard Hall.

15 Q. Did you say Richard Horne?

16 A. Hall. Hall.

17 Q. Hall?

18 A. Uh-huh (affirmative response). Yes.

19 Q. And he is your primary care physician?

20 A. Yes.

21 Q. How long have you gone to see Dr. Hall?

22 A. Well, I haven't had -- I change my other doctor, he
23 transferred to Pinewood at the other Family Health
24 Center, Mr. Robert Epps. That was my doctor. So,
25 after Mr. Robert Epps moved to Pinewood, that's when

1 I got Richard, because I didn't want to -- I didn't
2 have no transportation to travel to get to my doctor;
3 so, I want to keep it close in town to be convenience
4 for me.

5 Q. Sure. And when did you first start to see Dr. Hall?

6 A. Well, I don't see Dr. Hall until February the 2nd. I
7 see him every three months.

8 Q. Do you remember when the first -- how long ago it was
9 the first time you saw him?

10 A. I saw him in August the last time I see him.

11 Q. Okay. What about the very, very first time you saw
12 him when your doctor moved away and you first started
13 seeing him, when did that happen?

14 A. When I went with Dr. -- let's see -- I can't -- I
15 can't remember that day. I'm ---

16 Q. What are we talking about -- was it years ago or was
17 it relatively recent?

18 A. It was -- well, it's -- it's about a year. I really --
19 I can't -- I guess about a year. About a year.

20 Q. Okay. So, in the time of this accident, who -- what
21 was your -- who was your primary care doctor?

22 A. When this accident take place?

23 Q. Yes.

24 A. Mr. Robert Epps was my doctor.

25 Q. And did you -- you say you saw -- did you see him

- 1 regularly, too?
- 2 A. I see Mr. Robert Epps every three months.
- 3 Q. What is it for?
- 4 A. My -- the high blood pressures, my diabetes and my
- 5 cholesterol.
- 6 Q. Got you.
- 7 A. Uh-huh (affirmative response).
- 8 Q. Did you ever see him specifically for your knee or
- 9 back or your neck?
- 10 A. No. No. Uh-uh (negative response).
- 11 Q. Do you currently do anything for your knee, any
- 12 exercises?
- 13 A. Yeah, I walks. Uh-huh (affirmative response).
- 14 Q. How much do you walk?
- 15 A. Well, I walk in the park. I go to Memorial Park. I
- 16 probably walk around the track about two times. Uh-
- 17 huh (affirmative response).
- 18 Q. And do you -- I think you might have told me this and
- 19 I apologize if you did. Did your back ever get back
- 20 to the way it was before the accident?
- 21 A. No.
- 22 Q. Okay. What do you do for your back?
- 23 A. I'm taking pain pills for my back.
- 24 Q. What kind of pain pills?
- 25 A. The Ibuprofen.

1 Q. Is that over-the-counter or is that prescribed?

2 A. I got that from my doctor.

3 Q. Are there things you claim that you can't do now that
4 you used to be able to do?

5 A. Well, I can't stand on my leg too long. And I can't
6 bend or lift anything that's, you know, too heavy or
7 you know; yeah, I can't do those no more, because I
8 have problems.

9 Q. Has anyone told you what is wrong with your knee, why
10 -- why it is that it doesn't work as well as it did
11 before?

12 A. Has anyone told me what's wrong with my knee -- I had
13 a knee replacement and I have screws in my -- on the
14 side of my leg; so, ---

15 Q. Okay. So, you think that is -- that is what
16 causing your knee -- the knee pain that you have now?

17 A. No. I mean, I was having these pains, but after I got
18 in the accident, it's like a little more pressure, you
19 know what I'm saying, because I had a hit. It hit the
20 front of my knee, you know, where I had the accident
21 is where I had the surgery at. That's -- that's where
22 my leg got hit, you know, in the door. And ---

23 Q. What part -- what part of the car hit your knee?

24 A. That's when I -- when I opened the -- when I opened
25 the car door to jump out, that's when my -- my front

1 leg like hit the end of the door.

2 Q. Uh-huh (affirmative response).

3 A. Yeah.

4 Q. So, before the accident, you were having knee pain,
5 but it -- there was -- there is more pressure now you
6 said?

7 A. Yeah, it's more pressure now. Yes, since I hit it in
8 that spot where I had the surgery at. Uh-huh
9 (affirmative response).

10 Q. And you told me that your back is still bothering you?

11 A. Yes.

12 Q. Has any doctor told you what is wrong with your back,
13 why it is still bothering you?

14 A. Well, he told me that maybe I need to have surgery
15 because maybe one of my -- my spine might be twist
16 from that; so, I maybe need to have surgery.

17 Q. Have you followed up with him on that at all?

18 A. Well, we spoke about it, but I haven't decide to take
19 the surgery.

20 Q. About when do you think you spoke about it?

21 A. We spoke about it once -- the last time that I went to
22 visit him for my appointment.

23 Q. Why have you never spoken about that before your last
24 appointment with him?

25 A. Excuse me?

1 Q. You said the first time you spoke with him about
2 surgery, your back possible surgery on your back, was
3 the last time you saw him?

4 A. Yes.

5 Q. Did you talk to him about that before that time?

6 A. No, I didn't talk about -- I talked about it with him
7 after I been in the accident -- I spoke with him about
8 that.

9 Q. And I understand that. What I'm trying to figure out
10 is, when is the first time your doctor spoke to you
11 about surgery?

12 A. When I told him about my back has bothered me since I
13 had the accident and the epidural, and that's when he
14 said maybe -- my doctor done give me X-ray and he said
15 one of my -- my spine was twist and he wanted to knew
16 if I want to have the surgery. So, I keep putting it
17 off because I -- I'm not, -- you know, I feel afraid,
18 not that I -- I don't want to go through it.

19 Q. And did you say you think that it might have something
20 to do also with the epidural that you had when you had
21 your kid?

22 A. Yeah. Well, I did had the epidural and the epidural
23 did had my back aching, you know, a little, but after
24 I got in the accident, that really make it -- you
25 know, I had more pains.

1 Q. When was the last time you saw a doctor for your back,
2 your neck or your knee?

3 A. I haven't seen since one I went to the chiropractors;
4 I haven't seen no one else.

5 Q. When did you go to see the chiropractor?

6 A. I went -- well, I got set up with the chiropractors in
7 -- this happened in July; so, I guess they see me in
8 -- in August when I had the appointment to come in.
9 I think I came in that August. They set me up with
10 appointment. And I went there for like about -- I
11 think I -- I'm not really sure. I went -- I think I
12 went between six or four weeks. Between that, I'm not
13 really sure that -- I went to the chiropractors on
14 Broad Street.

15 Q. All right. You said you got set up. Who referred you
16 to the chiropractor?

17 A. Who referred me to the chiropractor?

18 Q. Uh-huh (affirmative response).

19 A. When I came -- when I came here to do my claim, ---

20 MR. MCELVEEN: I'll object to any
21 sort of disclosure of communications that
22 are -- are subject to attorney/client
23 privilege.

24 MR. CRUDUP: Oh, sure, yeah.

25 Q. I'm just trying to figure out who sent you to the

1 chiropractor. Can you tell -- can you tell me? Does
2 that make any sense? I don't want to -- I don't want
3 you to tell me anything about what you might have
4 talked about with your attorney.

5 A. Uh-huh (affirmative response).

6 Q. But I want to make sure I'm understanding. Maybe I'll
7 ask you. Did your attorney refer you to the
8 chiropractor?

9 MR. MCELVEEN: Object to the form.

10 Q. You can answer that. Does it make sense?

11 A. No.

12 Q. Okay. Let me see if I can ---

13 MR. CRUDUP: Can we go off the record
14 for a second?

15 (OFF THE RECORD).

16 EXAMINATION BY MR. CRUDUP CONTINUED:

17 Q. Ms. Oliver, I just -- I want to understand how -- let
18 me back up. Have you ever gone to see that
19 chiropractor before this accident?

20 A. No.

21 Q. Okay. So, why did you go to that chiropractor after
22 the accident?

23 A. I think I was -- I was assigned to go to that
24 chiropractor.

25 Q. Okay. Please don't be offended. I have to ask

1 everybody this. Have you ever been arrested before?

2 A. Yes.

3 Q. How many times have you been arrested?

4 A. About three, four.

5 Q. And when is the first time you remember being
6 arrested?

7 A. When me and this girl had a fight and she jump on me
8 and I fight her back, and that's my first time on
9 assault. Then we went -- me and her been with some
10 friends shoplifting. And then I was driving without
11 a driving License.

12 Q. Can you remember any other times?

13 A. And basically shoplifting, driving without a driving
14 License, and me and the girl have a fight. That's
15 basically it.

16 Q. Okay. When -- when you say you were in a fight, was
17 that back in high school you said?

18 A. Uh-huh (affirmative response). Like in '95 or
19 something.

20 Q. And then the shoplifting, when about did that happen?

21 A. That happen like last -- last year.

22 Q. And what happened with those? Did that get resolved
23 in some way?

24 A. Yeah, I took -- we took -- carry -- went to Wal-Mart
25 and I bought two wooden lamps, and the girl at the

1 cash register made a mistake and say that she took out
2 -- she took out for one and she didn't punch in the
3 other one; so, I went to walk out the door to push my
4 stuff out the -- outside. That's when they brought me
5 back in and that -- and they charged me with that
6 because I went outside, but the girl made the mistake
7 but I still had to pay the price for it. And they
8 charged me for that.

9 Q. And did that get resolved?

10 A. Yeah, we take care of it. Uh-huh (affirmative
11 response).

12 Q. And you said you also got arrested once for driving
13 without a License?

14 A. Yes.

15 Q. When did that happen?

16 A. In 2009.

17 Q. Was that from that accident?

18 A. Yes.

19 Q. Okay. Have you ever been treated for any drug or
20 alcohol abuse?

21 A. No.

22 Q. And have you ever seen any psychologist or
23 psychiatrist?

24 A. Well, I was going through some problems and they set
25 me up to go to Mental Health Center to -- for a

1 conference because I lost -- like, my brother got
2 killed and that really like take effect of me and they
3 had me set -- they set me up to go to Mental Health
4 Center for counseling, and I went through the program.

5 Q. And when about was that?

6 A. That's back in -- in the '90's.

7 MR. CRUDUP: Can we go off the record
8 for a second?

9 MR. McELVEEN: Sure.

10 (OFF THE RECORD).

11 EXAMINATION BY MR. CRUDUP CONTINUED:

12 Q. You said that your uncle was in the front seat when
13 this happened?

14 A. Yes, sir.

15 Q. Is he still in the area?

16 A. My uncle?

17 Q. Uh-huh (affirmative response).

18 A. I haven't seen him -- I don't be seeing him like that;
19 so, I'm not really sure.

20 MR. CRUDUP: All right, Ms. Oliver.,
21 those are all the questions I have. Thank
22 you.

23 MS. OLIVER: Thank you.

24 EXAMINATION BY MR. McELVEEN:

25 Q. Ms. Oliver, I just have a few follow-up questions I

1 want to ask you about. You said that this wreck that
2 we are here for, does July 24th, 2016 sound about
3 right?

4 A. Yes, sir.

5 Q. And the Collision Report, which is not evidence, says
6 it happened around 9:30 -- 9:35 in the morning. Would
7 you argue with that time?

8 A. Was I ---

9 Q. Would you argue with that being the right time?

10 A. Yeah. Yeah, that was the right time because we went
11 to the store.

12 Q. Okay. So, it was in the morning?

13 A. Yeah, it was in the morning.

14 Q. And ---

15 A. Yeah.

16 Q. And you testified that Mr. Richard Prothro picked you
17 up, your uncle was in the front -- front passenger
18 seat; is that right?

19 A. Yes.

20 Q. And he took you to Wal-Mart?

21 A. Yes.

22 Q. Okay. Did you all go anywhere else besides Wal-Mart?

23 A. We didn't go nowhere else. We didn't make it out the
24 parking lot after that. We didn't.

25 Q. Okay. How did Mr. Prothro do driving to Wal-Mart?

1 A. He was doing good. Normal. He drive like a
2 normal person all the way there. But once I came
3 back out to get in the car with my bags, that's
4 when everything take place right there in the
5 parking lot.

6 Q. Was there anything that he did on the way to Wal-Mart
7 that would cause you any alarm?

8 A. No, he didn't do nothing. He was driving like a
9 normal person to Wal-Mart.

10 Q. Did he have any trouble parking the vehicle?

11 A. No.

12 Q. But -- and so, the issues didn't come until after you
13 had already been in the store and come back out?

14 A. And that's when the accident take place.

15 Q. Okay. And I might have missed this, but how long have
16 you known Richard Prothro?

17 A. I know him for a minute because I told you he like a
18 family, being at and around the family and stuff.
19 I've known him for a minute.

20 Q. Okay. And do you know his wife ---

21 A. No, I don't know her like that. No.

22 Q. Her name is Sharon Prothro?

23 A. Yeah, but I don't know her like that.

24 Q. You don't know her?

25 A. No, not like that. I've seen her, but I don't know

1 her like that.

2 Q. Have you ever ridden with her before?

3 A. No. No.

4 Q. All right. And so, let's talk about the day this
5 wreck happened, July 24, 2016. When they came and got
6 you, whose -- whose vehicle did you believe it was?

7 A. He say it was his.

8 Q. Mr. Prothro's vehicle?

9 A. Uh-huh (affirmative response).

10 Q. Is that a yes?

11 A. Yes.

12 Q. Okay.

13 A. I'm sorry.

14 Q. Have you ever talked to Sharon Prothro about that
15 vehicle?

16 A. No.

17 Q. Had you ever talked to Richard Prothro about that
18 vehicle ---

19 A. No.

20 Q. -- prior ---

21 A. No.

22 Q. Let me finish the question; okay. I want to make sure
23 -- we can understand each other here, but I want to
24 make sure the court reporter can understand
25 everything.

GLORIA D. OLIVER VS.
RICHARD PROTHRO AND SHARON PROTHRO

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1 A. I'm sorry.

2 Q. So, had you ever talked to Richard Prothro about that
3 vehicle before July 24th, 2016?

4 A. No.

5 Q. Had you ever seen Richard Prothro driving that vehicle
6 before July 24th, 2016?

7 A. Yes, I been see him driving that vehicle before.

8 Q. You had seen him drive it before?

9 A. Yes.

10 Q. How many times do you think you had seen him driving
11 that vehicle before that?

12 A. A few -- I seen him a few times driving it, you know,
13 coming down Broad Street because I been living on
14 Harrison Street; so, he used to ride down Broad Street
15 and I used to walk to the schoolhouse to get my baby
16 during that period of time, and I'd see him driving
17 it.

18 Q. All right. Did -- did any -- did any -- did anybody
19 give you any indication whatsoever that there may not
20 be insurance coverage on that vehicle as of July 24th,
21 2016?

22 A. No.

23 Q. Okay. Did Richard Prothro ever tell you that there
24 wasn't insurance on the vehicle?

25 A. No.

1 Q. Did Sharon Prothro ever tell you there wasn't
2 insurance on the vehicle?

3 A. No.

4 Q. Did your uncle, who was in the car that day, ever tell
5 you or indicate to you that there may not be insurance
6 on that vehicle?

7 A. No.

8 Q. Did anybody ever tell you that?

9 A. No.

10 Q. Okay. And I'm going to show you a piece of paper that
11 I would like to mark as Plaintiff's Exhibit Number One
12 on this deposition.

13 MR. McELVEEN: Where it was signed
14 right here.

15 MR. CRUDUP: Okay.

16 Q. Let me ask you, have you ever -- have you seen this
17 before? You can look it over. Have you ever seen it
18 before now?

19 A. No.

20 Q. And what this is is, it's -- it is an exclusion that
21 has been provided by Mr. -- Mr. Prothro and Mrs.
22 Prothro's attorney in this case ---

23 A. Uh-huh (affirmative response).

24 Q. -- that is purportedly some sort of exclusion. You
25 have never seen this before?

1 A. No.

2 Q. And has anybody ever made you aware of this before?

3 A. No.

4 Q. Today is the first time you have ever seen this?

5 A. It's the first.

6 Q. Okay.

7 MR. McELVEEN: Can I mark that as
8 Plaintiff's Exhibit Number One? You can
9 keep that copy.

10 COPY OF NAMED DRIVER EXCLUSION MARKED
11 PLAINTIFF'S EXHIBIT NUMBER ONE.

12 A. First I ever seen that paper.

13 Q. All right.

14 MR. MCELVEEN: Thank you, ma'am, and
15 I have nothing further. I have nothing
16 further.

17 MR. CRUDUP: I have -- that's all.

18 MS. OLIVER: All right. Thank you.

19 (THERE BEING NO FURTHER QUESTIONS, THE DEPOSITION WAS
20 CONCLUDED AT 4:22 P.M.).

21

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER) CERTIFICATE

I, Doris Tompkins Brown, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, certify that I did have Gloria D. Oliver appear before me commencing at 3:10 P.M. on December 2, 2019 at the offices of the Bryan Law Firm of SC, LLP, 17 East Calhoun Street, Sumter, South Carolina; that the witness was duly sworn and cautioned to tell the truth; that the foregoing pages constitute a true and accurate transcript of the testimony given at that time and place.

I hereby certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 4th of January, 2020.

Doris Tompkins Brown ,CVR
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission expires: 4-02-2025

Policy number: 55178995-0
 SHARON PROTHRO
 Page 5 of 12

Named Driver Exclusion Election

You have named the following persons as excluded drivers under this policy:

RICHARD PROTHRO

Date of Birth: May 6, 1955

No coverage is provided for any claim arising from an accident or loss involving a motorized vehicle being operated by an excluded person. This includes any claim for damages made against any named insured, resident relative, or any other person or organization that is vicariously liable for an accident or loss arising out of the operation of a motorized vehicle by the excluded driver.

This form must be signed by the named insured.

I understand and agree that this Named Driver Exclusion election shall apply to this policy and any renewal, reinstatement, substitute, amended, altered, modified or replacement policy with this company or any affiliated company, unless a named insured revokes this election.

I declare that either the driver's license of the excluded persons named in this Named Driver Exclusion election has been turned into the Department of Motor Vehicles, or that an appropriate policy of liability insurance or other security as may be authorized by law has been properly executed in the name of the person to be excluded.

Signature of named insured

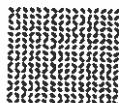
Date

X *Sharon J. Prothro*

4-2-09

Form 9330 SC (04/07)

Claim # 165237341



Continued

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF SUMTER) C/A NO.: 2018-CP-43-1323

Gloria D. Oliver,)
Plaintiff,)
vs.)
Richard Prothro and Sharon Prothro,)
Defendants.)

Deposition of RICHARD PROTHRO, taken by Doris Tompkins Brown, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, commencing at 4:36 P.M. on December 2, 2019 at the offices of The Bryan Law Firm, LLP, 17 East Calhoun Street, Sumter, South Carolina.

APPEARANCES

ON BEHALF OF THE PLAINTIFF: Thomas E. McElveen, III
The Bryan Law Firm, LLP
Post Office Box 2038
Sumter, South Carolina

ON BEHALF OF THE DEFENDANTS: Jeffrey M. Crudup
Clarkson Walsh & Coulter
Post Office Box 2219
Mount Pleasant, S. C.

Doris Tompkins Brown

COPY

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DEFENDANT'S
EXHIBIT

G

ON BEHALF OF PROGRESSIVE

NORTHERN INSURANCE

COMPANY:

Sarah E. Caiello

Murphy & Grantland, P.A.

Post Office Box 6648

Columbia, South Carolina

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Named Driver Exclusion Election Pl. Ex. 1

* * * * *

(COURT REPORTER'S NOTE: --- INDICATES INTERRUPTION,

INCOMPLETE PHRASE, TRAILING OFF, INCOMPLETE SENTENCE)

1 The deposition of Richard Prothro is being taken
2 pursuant to Notice and in accordance with the South
3 Carolina Rules of Civil Procedure and Amendments as adopted
4 by the Supreme Court which shall control the taking of said
5 deposition and its use thereof.

6 Counsel, with the specific consent of the witness,
7 waives the reading and signing of the deposition prior to
8 the time it is filed with the Court.

9 (Richard Prothro, having been duly sworn, testifies as
10 follows:)

11 EXAMINATION BY MR. McELVEEN:

12 Q. Mr. Prothro, good afternoon.

13 A. Good afternoon.

14 Q. My name is Thomas McElveen. I work here at the Bryan
15 Law Firm. And I represent Ms. Gloria Oliver in a
16 lawsuit that has been brought against you and also
17 against Sharon Prothro as a result of an incident that
18 happened back on July 24th of 2016.

19 A. Right.

20 Q. And a few things I want to ask you. Have you ever
21 given a deposition before?

22 A. No.

23 Q. This is your first time doing anything like this?

24 A. Yes.

25 Q. Okay. You are doing great so far. The only thing I

1 would -- a couple things I would tell you is, when you
2 and I are talking, if I ask you a question that is a
3 yes or no question, please try to say yes or no, which
4 you are -- which you are doing now and which I
5 appreciate because if we say uh-huh or uh-uh or that
6 sort of thing, I'm going to understand what you are
7 saying but the court reporter has a hard time taking
8 that down; okay?

9 A. Right.

10 Q. The other thing is, is if you and I get to talking,
11 sometimes in conversation, you know, you might start
12 answering a question before I finish the question or
13 I might ask the next question before you finish your
14 answer. You and I will understand each other, but she
15 has a hard time getting that -- that down. So, can
16 you just be careful about starting your answer until
17 I finish my question?

18 A. Yes.

19 Q. And I'm going to try to do my best to not start my
20 next question until you have finished your answer;
21 okay?

22 A. Okay.

23 Q. A few things I wanted to ask you also. Are you under
24 the care of a psychiatrist or a mental health
25 professional as of today?

1 A. No.

2 Q. Have you ever had any sort of psychiatric treatment or
3 mental health -- or care for any mental health
4 conditions?

5 A. No.

6 Q. Okay. And as we sit here today, are you under the
7 influence of any drugs, alcohol or anything else?

8 A. No.

9 Q. Do you take any medications?

10 A. Yes.

11 Q. What sort of medications do you take?

12 A. Allopurinol.

13 Q. What is that for?

14 A. Gout.

15 Q. Gout?

16 A. Yes.

17 Q. Anything else that you have to take?

18 A. No.

19 Q. Have you taken Allopurinol today?

20 A. Yes.

21 Q. Does it -- does it affect your ability to understand

22 ---

23 A. No.

24 Q. -- questions and that sort of thing?

25 A. No.

1 Q. Okay. And I -- I ask everyone basically the same
2 questions when I take these depositions, and so,
3 there's no surprises. I'm not here to trick you, I'm
4 not here to argue with you or pick on you. I'm going
5 to ask you questions about your background and kind of
6 who you are, where you came up and where you are from,
7 and the reason I'm doing that is because I want to
8 know if there's folks in Sumter County who may
9 empathize with you if we end up selecting a jury just
10 like your attorney is going to want to know if there
11 are folks that may empathize with Ms. Oliver if we end
12 up in a jury trial for this; okay?

13 A. Okay.

14 Q. And then I'm just going to ask you questions basically
15 about what happened on July 24th, 2016. There are
16 some more rules I have to share with you, though.
17 During this deposition, you understand what while you
18 have an attorney who is present today -- I think your
19 -- your wife, Sharon Prothro, is here also?

20 A. Yes.

21 MS. PROTHRO: I'm Sharon.

22 Q. Okay. You understand that, during this deposition,
23 you can't look to anybody else for answers; you are
24 the only person that can answer my questions during
25 the deposition?

1 A. Yes.

2 Q. Okay. And ordinarily -- well, you -- you always have
3 attorney/client privilege with your attorney, okay,
4 and I don't want to know anything that you and your
5 attorney talked about; I don't want to know what you
6 have told him or what he has told you. But if you
7 take a -- if we take a break during this deposition
8 and you talk to your attorney, I will be able to ask
9 you what you talked about just during the time this
10 deposition is going on. Is that okay?

11 A. Okay.

12 Q. All right. And if you need a break or something like
13 that, please let me know. I'm happy to give you a
14 break. If you need to walk out, walk around or get
15 some coffee or whatever else, you are welcome to do
16 that. Just let me know; okay?

17 A. Okay.

18 Q. The other thing I want to tell you is, do you
19 understand that today while, you know, we're not --
20 none of us are real dressed up today, we are not in a
21 courtroom, but you understand that this is like an
22 extension of the courtroom?

23 A. Right.

24 Q. This is a Court proceeding and that you -- you are
25 under oath today?

1 A. Right.

2 Q. And so, you understand that the same penalties of
3 perjury would apply for not being truthful as it would
4 in a Court of Law?

5 A. Right.

6 Q. You understand that, too?

7 A. Yes.

8 Q. Okay. And so, if I ask some questions today that --
9 that you don't understand, that you need me to repeat
10 those questions, please -- please tell me. I will be
11 glad to rephrase a question, I will be glad to restate
12 a question if you need that; okay?

13 A. Okay.

14 Q. And so, the last thing I need to ask you right now is,
15 if I ask you a question and you answer my question,
16 I'm going to assume that you understood the question
17 and answered it truthfully because you are under oath
18 today. Is that fair?

19 A. Right.

20 Q. Okay. And, Mr. Prothro, if you would, please state
21 your full name for the record.

22 A. Richard Prothro.

23 Q. Okay. Do you have a middle name or anything like
24 that?

25 A. No middle name.

1 Q. Just Richard Prothro?

2 A. I have a son that's Junior. I'm Senior.

3 Q. Okay. You are Senior and he is Junior. All right.

4 We can talk about that in a few minutes. Mr. Prothro,
5 what is your date of birth?

6 A. May the 6th, 1955.

7 Q. Okay. What is your current residence?

8 A. 125 West Bartlette Street, Apartment 502.

9 Q. Okay. How long have you been living there for?

10 A. Since May.

11 Q. Since May of this year?

12 A. This year.

13 Q. May 2018 -- 2019?

14 A. Yes.

15 Q. Okay. Who do you live there with?

16 A. My wife.

17 Q. Okay. What is her name?

18 A. Sharon.

19 Q. And she is here today?

20 A. Yes.

21 Q. Okay. And how long have you and Sharon Prothro been
22 married? Sorry to put you on the spot with her
23 sitting here.

24 A. Let me see.

25 MRS. PROTHRO: June the 16th, Two

1 Thousand ---

2 MR. MCELVEEN: He's going to have to
3 answer my questions, Ms. Prothro. I'm sorry.

4 A. Ten years.

5 Q. What year did you get married; do you recall that?

6 A. I can't remember.

7 Q. Been married more than ten years?

8 A. Ten, I think.

9 Q. Okay. And I will ask Ms. Prothro questions about
10 that, okay, but you have been married to her for a
11 while?

12 A. Yes.

13 Q. Okay. And were you -- were you married as of July
14 24th, 2016?

15 A. Yes.

16 Q. And do you agree that is the day that this incident
17 happened?

18 A. Yes.

19 Q. Okay. So, is it -- is it fair that if I say "this
20 incident," we are talking about the incident that
21 happened in the Wal-Mart parking lot on July 24th,
22 2016?

23 A. Yes.

24 Q. That is what we are here for today; right?

25 A. Right.

1 Q. Okay. And so, how many children do you have?

2 A. One.

3 Q. And you mentioned already that's -- that's ---

4 A. Richard Junior.

5 Q. Richard Prothro, Junior?

6 A. Yes.

7 Q. Does he live here in Sumter also?

8 A. Yes.

9 Q. How old is he now?

10 A. Forty-one (41).

11 Q. Okay. Does he -- does he work somewhere in town?

12 A. Not right not.

13 Q. What kind of work does he usually do?

14 A. He's done construction, he's worked in a grocery
15 store.

16 Q. Okay. Is he married?

17 A. Yes.

18 Q. And what is his wife's name?

19 A. Michella.

20 Q. Michella?

21 A. Yes.

22 Q. Do you know what she does for a living, what kind of
23 work she does?

24 A. She doesn't work right now.

25 Q. What kind of work does she usually do?

1 A. She do hair and like -- what's all the stuff with the
2 fingernails and that kind of stuff.

3 Q. Okay. Do you remember what her name was before she
4 got married to your son, what her last name was?

5 A. Dicks.

6 Q. Dicks, D-I-C-K-S?

7 A. Yes.

8 Q. Okay. All right. Do they have any children?

9 A. One.

10 Q. Is that child over the age of eighteen (18)?

11 A. No.

12 Q. Okay. Does the child go to school?

13 A. He just started to go to preschool.

14 Q. He just started to go to preschool?

15 A. Yeah.

16 Q. Okay. Their child is a young -- so, they have got a
17 young child?

18 A. Right.

19 Q. That -- is that your only grand?

20 A. No.

21 Q. You have other grands?

22 A. Yes.

23 Q. Who -- who are they?

24 A. He has one in New York.

25 Q. Okay.

- 1 A. And then he has another one in Sumter besides the
2 youngest one.
- 3 Q. Okay. Is that -- is that other child in Sumter over
4 the age of eighteen (18)?
- 5 A. No.
- 6 Q. Okay. Where does that child go to school?
- 7 A. I don't know.
- 8 Q. You are not sure?
- 9 A. No.
- 10 Q. Is that child's mother also Michella or someone else?
- 11 A. No, it's not.
- 12 Q. Who -- who is the mother of that child?
- 13 A. Oh, boy, what's that girl's name? I can't remember.
- 14 Q. You don't remember -- do you remember what her last
15 name is?
- 16 A. No.
- 17 Q. Okay. All right. And what was your -- what was your
18 wife's maiden name before she became Sharon Prothro?
- 19 A. Day. Day. D-A-Y.
- 20 Q. Okay. D-A-Y. Got you. All right. And were you --
21 were you born and raised here, Mr. Prothro?
- 22 A. In Sumter County.
- 23 Q. You were born and raised in Sumter?
- 24 A. Mayesville.
- 25 Q. Mayesville?

- 1 A. That's Sumter County?
- 2 Q. Sumter County, yes, sir.
- 3 A. Right.
- 4 Q. Have you live anywhere besides Sumter County in your
- 5 life?
- 6 A. No.
- 7 Q. But you -- you were born and raised in Mayesville?
- 8 A. Right.
- 9 Q. Okay. Who -- who were your parents?
- 10 A. Will and Gardenia Moore.
- 11 Q. Are they still alive?
- 12 A. No.
- 13 Q. Okay. Well, how did you -- how did you end up with
- 14 the last name of Prothro?
- 15 A. Well, my mother met Roger Prothro in New York and they
- 16 were married, and she came home before I was born and
- 17 she married Waddell Moore and he raised me.
- 18 Q. Okay. I got you. What kind of work did he, Mr. Moore
- 19 do?
- 20 A. Farm.
- 21 Q. How about your mom?
- 22 A. Farm.
- 23 Q. Either one of them still -- still living?
- 24 A. No.
- 25 Q. Okay. Do you got any brothers and sisters in Sumter

1 County?

2 A. Yes.

3 Q. Do you have a bunch of them or just a few?

4 A. Few.

5 Q. Okay. Who are -- who are your -- who are your

6 brothers that still live in Sumter County?

7 A. Roger Prothro, ---

8 Q. Yes, sir.

9 A. -- Junior. Franklin Moore. Wendell Moore. Bernadine

10 Moore. And Geraldine Shakur.

11 Q. And they all live in Sumter now?

12 A. Yes.

13 Q. Can you tell me what Roger Prothro -- what kind of

14 work does he do? Roger Prothro, Junior.

15 A. He's retired.

16 Q. From where?

17 A. The City.

18 Q. Okay. How about Franklin Moore?

19 A. He's disabled.

20 Q. He's disabled. What kind of work did he used to do?

21 A. He was in the military, but when he retired, he was

22 working at Florence Concrete.

23 Q. Okay. How about Wendell Moore?

24 A. He works for a grocery store. Kroger. I think it's

25 Kroger.

- 1 Q. How about Bernadine Moore?
- 2 A. She don't work.
- 3 Q. Okay. How about Geraldine Shakur?
- 4 A. She works at Tuomey Hospital.
- 5 Q. Okay. And I will kind of cut to the chase on that.
- 6 What I'm trying to figure out is who your kin is in
- 7 Sumter County; okay. And so, what I'll -- what I will
- 8 just ask you is, can you -- can you give me the last
- 9 names of anybody in Sumter County that you feel like
- 10 is your kin or that you are related to by blood or
- 11 marriage? You have already told me Day, Dicks, Moore,
- 12 Prothro, Shakur; any other names of people that you
- 13 consider to be your kin, last names?
- 14 A. My sister-in-law.
- 15 Q. Okay. What was her last name?
- 16 A. Patricia Williams.
- 17 Q. Williams. Okay. Any other last names?
- 18 A. Her husband, James Williams.
- 19 Q. Okay.
- 20 A. My sister-in-law, Harriet Moore. Geraldine's husband,
- 21 Abdul Shakur.
- 22 Q. Okay. They are all in Sumter?
- 23 A. Yes.
- 24 Q. Okay. Anybody else?
- 25 A. Oh. Roger's wife, Shirley.

- 1 Q. Okay. What was her maiden name?
- 2 A. Prothro.
- 3 Q. What was her name before she was a Prothro; do you
- 4 know?
- 5 A. I -- I don't remember.
- 6 Q. All right. Is there any other last names, people that
- 7 you consider to be like aunts, uncles, cousins,
- 8 nieces, nephews, any other last names that we haven't
- 9 covered? I'm just trying to figure out which families
- 10 you are related to.
- 11 A. Let's see. Cousar.
- 12 Q. Cousar. Okay.
- 13 A. Ruby Cousar.
- 14 Q. C-O-U -- C-O-U-S-A-R?
- 15 A. Right. Grandale Titus.
- 16 Q. Titus?
- 17 A. Yes. Robert Titus.
- 18 Q. Okay.
- 19 A. Martin Titus.
- 20 Q. Any other kin you can think of?
- 21 A. That's about all I can think of right now.
- 22 Q. All right. And your wife, again, she is sitting
- 23 here. Maybe she can -- maybe she can pick up the
- 24 pieces if we are missing any; okay?
- 25 A. Right.

1 Q. In a few minutes. If you would, Mr. Prothro, I am
2 going to ask you to give me -- give me your Social
3 Security Number.

4 A. Okay.

5 Q. I want to go to go off the record to do that; okay?

6 A. Okay.

7 MR. McELVEEN: Off the record.

8 (OFF THE RECORD)

9 MR. McELVEEN: We can go back on the
10 record.

11 EXAMINATION BY MR. McELVEEN CONTINUED:

12 Q. Mr. Prothro, do you have a Driver's License?

13 A. No.

14 Q. Okay. When is the last time you had a Driver's
15 License?

16 A. Ten years ago.

17 Q. Ten years ago?

18 A. Yes.

19 Q. Okay. So, you have not had a Driver's License since
20 roughly 2009?

21 A. Yes.

22 Q. Okay. And is there a reason why you don't currently
23 have a Driver's License?

24 A. It got suspended.

25 Q. And it got suspended some time around 2009?

1 A. Yes.

2 Q. Or ten years ago. I'm not going to hold you to the
3 exact date. Why did your License get suspended?

4 A. DUI.

5 Q. Okay. You had a DUI conviction some time around ten
6 years ago?

7 A. Yes.

8 Q. Okay. And have you had more than one DUI or just one?

9 A. Two.

10 Q. Two DUI's. Approximately what years were those?

11 A. The other one was before that one was about twelve
12 (12) years before that one.

13 Q. Twelve (12) years?

14 A. Yes.

15 Q. But you think that you -- your testimony is that the
16 last DUI you received is -- was about ten years ago?

17 A. Yes.

18 Q. That is why you are suspended today?

19 A. Yes.

20 Q. Okay. But you -- your suspension should have been up
21 by -- the DUI should have been up before now; right?

22 A. Yes, but I never went back and get -- get a License.

23 Q. You never went back and got it?

24 A. No.

25 Q. Is there any reason why -- is there any reason why?

- 1 A. Couldn't afford to pay the money.
- 2 Q. Okay. Since -- since your License got suspended you
- 3 said ten years ago, have you driven since then?
- 4 A. Yes.
- 5 Q. Okay. How many times have you driven since then?
- 6 A. Not much.
- 7 Q. Not much?
- 8 A. No.
- 9 Q. Can you -- how many times is not much?
- 10 A. Every now and then.
- 11 Q. Every now and then?
- 12 A. Yeah.
- 13 Q. So, in Two Thousand and -- since 2010, that is nine
- 14 years ago; right?
- 15 A. Right.
- 16 Q. How many times do you think you have driven in the
- 17 last nine years?
- 18 A. Maybe twice a month.
- 19 Q. Twice a month?
- 20 A. Yeah.
- 21 Q. Since 2009?
- 22 A. Yeah.
- 23 Q. How many times have you been stopped by law
- 24 enforcement driving since 2010? Since 2010.
- 25 A. Twice.

- 1 Q. Two times?
- 2 A. Yes.
- 3 Q. And did you get ---
- 4 A. One time. One time.
- 5 Q. Okay. One time?
- 6 A. Yes.
- 7 Q. You mean ---
- 8 A. Until the wreck.
- 9 Q. Okay.
- 10 A. And I didn't get stopped then.
- 11 Q. Okay. So -- so, law enforcement stopped you one time
- 12 prior to the wreck that we are talking about today?
- 13 A. Right.
- 14 Q. Okay. And do you remember what that was for or what
- 15 happened?
- 16 A. He said I didn't give a signal when I turned.
- 17 Q. Okay. Did you get any -- did you get any charges from
- 18 that?
- 19 A. Driving Under Suspension.
- 20 Q. Okay. And let me ask -- let me ask you this. You --
- 21 you testified a second ago that you had one DUI about
- 22 ten years ago and another one about twelve (12) years
- 23 ago?
- 24 A. Yes.
- 25 Q. That is from today's date?

1 A. Yes.

2 Q. Okay. Did you ever have any suspensions prior to
3 that? Did you have any -- have any suspensions before
4 that first DUI?

5 A. No.

6 Q. You never had a suspension back in 2001?

7 A. Maybe I did. I can't recall.

8 Q. Okay. But your -- your testimony today is that you
9 have had two Driving Under the Influence convictions?

10 A. Yes.

11 Q. Okay. How far did you go in school, Mr. Prothro?

12 A. I graduated.

13 Q. You graduated from high school?

14 A. Yes.

15 Q. What high school did you graduate from?

16 A. Mayewood High.

17 Q. What year was that?

18 A. 1973.

19 Q. Did you go to Mayewood all four years of high school?

20 A. No. I went to Eastern High in ninth grade and the
21 rest to Mayewood.

22 Q. Okay. Where did you go to middle school?

23 A. Mayesville.

24 Q. Mayesville?

25 A. Institute. That was from first through eighth grade.

1 Q. Got you. All right. Did you go -- have you had any
2 sort of -- any further education since you graduated
3 from high school?

4 A. No.

5 Q. You didn't go back for any college or certifications?

6 A. No.

7 Q. Nothing like that?

8 A. No.

9 Q. Okay. Have you -- have you been working since you
10 graduated from high school?

11 A. Beg your pardon?

12 Q. Have you been working since you graduated from high
13 school?

14 A. Yes.

15 Q. Tell me where all you have worked. Start with your
16 first job after high school; what did you do?

17 A. I worked for Georgia Pacific.

18 Q. How long did you work there for?

19 A. Three months.

20 Q. Okay. And why did you end up leaving that job?

21 A. More -- a better paying job.

22 Q. A better paying job?

23 A. Yes.

24 Q. Where did you go to after that?

25 A. FCX.

- 1 Q. S?
- 2 A. FCX.
- 3 Q. FCX. What is that?
- 4 A. That's down on Liberty Street down there across from
- 5 Santee Print; it used to be a feed place and ---
- 6 Q. That's where -- that's where you went after you left
- 7 Georgia Pacific?
- 8 A. Yeah.
- 9 Q. How long did you work there for?
- 10 A. Let's see. It was '73 to 1975.
- 11 Q. Okay. Why did you end up leaving that job?
- 12 A. Went in the Marine Corps.
- 13 Q. You were in the Marine Corps?
- 14 A. Yes.
- 15 Q. Around 1975?
- 16 A. March of '75.
- 17 Q. All right. How long were you in the Marines for?
- 18 A. Eighty-eight (88) days.
- 19 Q. Eighty-eight (88) days?
- 20 A. Yes.
- 21 Q. What -- why did you end up leaving the Marine Corps?
- 22 A. Couldn't adjust to military life.
- 23 Q. Okay. Did you get some sort of discharge; what kind
- 24 of discharge did you get?
- 25 A. Honorable.

1 Q. Honorable discharge?

2 A. Yes.

3 Q. Okay. But no injury or anything like that?

4 A. No.

5 Q. Okay. Did you ever get sent anywhere, like, deployed
6 or basic training -- for basic or anything like that?

7 A. Beg your pardon?

8 Q. Did you ever get sent for, like, basic training or any
9 deployments or anything like that?

10 A. No.

11 Q. You did not?

12 A. You said did I get ---

13 Q. Well, I will ask you, did you ever get deployed
14 anywhere?

15 A. No.

16 Q. Did you ever -- did you -- did you get through basic
17 training?

18 A. I went -- not all the way through. I got out of basic
19 training.

20 Q. Where did you go to Camp LeJeune or somewhere? Where
21 did you go for basic?

22 A. Parris Island.

23 Q. Parris Island. I meant Parris Island. Sorry. Okay.
24 So, you got out after eighty-eight (88) days. What
25 did you do after that?

- 1 A. Came home and worked at Santee Print.
- 2 Q. Santee Print?
- 3 A. Yes.
- 4 Q. How long were you there for?
- 5 A. About three years, I guess.
- 6 Q. Three years?
- 7 A. Yes.
- 8 Q. Why did you leave Santee Print?
- 9 A. Let's see. First job. I just quit.
- 10 Q. Okay. Did you go work somewhere after that?
- 11 A. Boozer and Wharton Construction Company.
- 12 Q. All right. How long were you there for?
- 13 A. For about two years and a half.
- 14 Q. Same question on that. Why did you end up leaving
- 15 that job?
- 16 A. Quit.
- 17 Q. You quit that one, too?
- 18 A. Uh-huh (affirmative response).
- 19 Q. All right. Was there a reason why?
- 20 A. No.
- 21 Q. All right. What did you do after that?
- 22 A. I think I got the job back -- I worked at Santee
- 23 twice. I think I went back to Santee Print again.
- 24 Q. Okay. How long did you stay that second time around?
- 25 A. Probably about two years.

- 1 Q. Two years. Why did you leave that time?
- 2 A. They fired me.
- 3 Q. What was that for?
- 4 A. Not coming to work.
- 5 Q. Okay. Do you remember about what time -- when that
- 6 was, what year that would have been?
- 7 A. That was in -- some time in the '80's.
- 8 Q. Okay. What did you do after -- what did you do after
- 9 that job?
- 10 A. Let's see. I drove a cement mixer for Sumter
- 11 Concrete.
- 12 Q. All right. How long did you do that for?
- 13 A. Not quite a year.
- 14 Q. All right. And why did you leave that job?
- 15 A. Got laid off.
- 16 Q. Okay. Did you go somewhere -- did you work somewhere
- 17 else after that?
- 18 A. Florence Concrete.
- 19 Q. Florence Concrete, here or in Florence?
- 20 A. In Sumter.
- 21 Q. In Sumter. When did you start doing that; when did
- 22 you start working at Florence Concrete?
- 23 A. Latter part of '89.
- 24 Q. '89. They were in Sumter back then, too?
- 25 A. It was Sumter Express Concrete then.

1 Q. Okay. How long -- how long did you work for Florence
2 Concrete back -- back then?

3 A. Probably about a year and a half.

4 Q. All right. Why did you leave Florence -- why did you
5 leave Florence Concrete?

6 A. Just quit.

7 Q. Okay. Where did you work after that?

8 A. I worked for my brother doing concrete work. James
9 Prothro.

10 Q. Okay.

11 A. But he don't live in Sumter.

12 Q. All right.

13 A. He had his own concrete business, and I worked for
14 him.

15 Q. What -- how long did you work there for?

16 A. Probably ten years.

17 Q. Okay. Ten years?

18 A. Yes.

19 Q. Anywhere else you have worked that we haven't talked
20 about yet?

21 A. That's about it.

22 Q. Are you working now?

23 A. No.

24 Q. Okay. When is the last time you had a job or you
25 worked?

1 A. When I worked for my brother.

2 Q. You worked for your brother?

3 A. That's -- that's the last when I worked.

4 Q. That's the concrete ---

5 A. Yeah.

6 Q. -- that's the concrete business that you worked for
7 that you said ten years?

8 A. Yes.

9 Q. All right. Can you remember about when -- when is the
10 last time you worked for your brother; how long ago
11 has that been?

12 A. Oh, about twenty-five (25) years ago.

13 Q. So -- so, you have not worked in about twenty-five
14 (25) years?

15 A. I been doing little yard work and stuff like that ---

16 Q. Okay.

17 A. -- since then.

18 Q. Are you disabled or anything like that?

19 A. Now I am, yes.

20 Q. You do receive Disability?

21 A. Yes.

22 Q. When did you start receiving Disability?

23 A. About seven years ago.

24 Q. Okay. And what's -- what is that for; how did you end
25 up receiving Disability?

1 A. I was -- my body was messed up; they sent me to a
2 Disability doctor, and he said I done messed up the
3 tissues in my body and stuff.

4 Q. Okay. How did you do that?

5 A. It just happened. I mean, ---

6 Q. All right. Going through your work history that you
7 just shared with me, I think the only time you told me
8 you were actually fired from a job was from Santee
9 Print?

10 A. Yes.

11 Q. Okay. Have you ever been fired or terminated from any
12 other job besides the one you mentioned to me?

13 A. Boozer, Wharton and Zeigler.

14 Q. Okay. What -- what did that involve?

15 A. Not coming to work.

16 Q. Okay. Any other job that you got fired from?

17 A. Those are the only two.

18 Q. Just those two. Okay. And I ask everybody this
19 question. I'm probably going to ask -- ask your wife
20 the same questions in a few minutes. Please don't get
21 offended by them. I ask everybody these questions.
22 The first question I have is, have you ever been
23 convicted of a crime? And what I mean by convicted
24 is, has a judge or a jury ever found you guilty of a
25 crime anywhere or have you ever pled guilty to a

1 crime?

2 A. No.

3 Q. No?

4 A. No.

5 Q. Okay. So, you have no criminal record?

6 A. Never been before a judge and jury.

7 Q. Okay. Well, have you ever been convicted of a crime?

8 A. Simple stuff.

9 Q. Okay. Like -- the question is, have you ever been

10 convicted of a crime; so, whether it's simple or

11 complicated, I just need you to answer the question,

12 have you ever been convicted of a crime?

13 A. Yes.

14 Q. Okay. What?

15 A. DUI.

16 Q. Okay. You mention -- you did mention that earlier.

17 You say you had two DUIs?

18 A. Yes.

19 Q. Okay. Anything else?

20 A. Disorderly conduct.

21 Q. That's it?

22 A. Fighting.

23 Q. Fighting?

24 A. Yes.

25 Q. Okay. Any -- anything else?

1 A. No.

2 Q. Okay. So, your testimony is that any -- any criminal
3 record that you would have would just have two DUIs on
4 it, a disorderly conduct charge and a charge that is
5 related to fighting?

6 A. Yes.

7 Q. Okay. In your life, and besides the ones that you
8 just mentioned to me, have you ever been arrested for
9 anything else that maybe you weren't convicted for?

10 A. No.

11 Q. Okay. And let's -- let's talk about your driving
12 record for a second. If I look at -- if I look at
13 your driving record over the last ten years, I know
14 you said you have been suspended for about the last
15 ten years. Am I going to see any sort of driving
16 related offenses on your ten year driving record?

17 A. No.

18 Q. Okay. So, no -- no traffic citations over the last
19 ten years?

20 A. No.

21 Q. Okay. And were you -- just to kind of get a point of
22 reference, were -- you mentioned your military service
23 when you were in the Marine Corps?

24 A. Yes.

25 Q. Were you married then?

1 A. No.

2 Q. Okay. You have been married one time or more than

3 once?

4 A. Twice.

5 Q. Twice. Who was your first wife?

6 A. Betty Lesane.

7 Q. Okay. When were -- when were you all married?

8 A. At the courthouse.

9 Q. Okay. When, like what -- what period of time; what

10 years were you married from?

11 A. 1977.

12 Q. That is when you were married?

13 A. Yes.

14 Q. Okay. And were you divorced or did something else

15 happen?

16 A. We got divorced.

17 Q. You got divorced. When -- when was that?

18 A. We just got divorced about twelve (12) years ago.

19 Q. Twelve (12) years ago?

20 A. Yeah.

21 Q. Going back to your military stint that you had in the

22 Marines, you said you received an Honorable discharge?

23 A. Yes.

24 Q. But you said the military life just didn't suit

25 you?

1 A. No.

2 Q. Why did they let you go? They don't usually let
3 folks go after ninety days in.

4 A. The reason they let me go, they said I couldn't adjust
5 to military life.

6 Q. Okay. Was it medical problems you were having or ---

7 A. No.

8 Q. Okay.

9 A. I didn't like it.

10 Q. I got you. All right. And, Mr. Prothro, do you and
11 your wife attend a church regularly in Sumter County?

12 A. No.

13 Q. You don't. Have you -- have you ever had a church in
14 Sumter County that you attended regularly?

15 A. Years ago.

16 Q. What church was that?

17 A. Household of Faith.

18 Q. All right. Are you a member of any kind of service
19 organizations, clubs, civic groups?

20 A. No.

21 Q. Fraternity, Mason group, anything like that?

22 A. No.

23 Q. Okay. All right. And I notice today you are not
24 wearing glasses. Do you typically wear eyeglasses?

25 A. No.

1 Q. How -- how is your vision?

2 A. Good.

3 Q. No problems with your vision?

4 A. No.

5 Q. Okay. And prior to -- prior to -- prior to the
6 collision that we are here for today that happened on
7 July 24th, 2016, had you ever been in any wrecks, car
8 wrecks prior to that, before that?

9 A. Yes.

10 Q. Okay. And tell me -- about how many wrecks do you
11 think you have been in prior to that?

12 A. Three.

13 Q. Three. And were you driving in any of those wrecks?

14 A. Two.

15 Q. Two of them. When did those happen?

16 A. The first one I was in I wasn't driving; that was
17 1976.

18 Q. Yes, sir.

19 A. But I was told that we was coming from Mayesville to
20 Sumter.

21 Q. Okay.

22 A. And a tractor and trailer ran into the car I was in.

23 Q. Yes, sir.

24 A. And said -- it was four of us in the car and I was
25 sitting behind the driver and it hit where I was

1 sitting at, and the fellow said he thought the car was
2 going to blow up; so, he dragged me out. I had my
3 neck cracked and my head bust open. They had to take
4 a bone from my hip and replace the bone in my neck.
5 And I stayed over in Richland Memorial for a few
6 months. After that, one Sunday, I was taking my
7 girlfriend to church on South Harvin and Fulton and
8 was at the light and the light was messed up, ---

9 Q. Yes, sir.

10 A. -- and the people said the light was guiding people
11 into each other and when I came through, me and the
12 other car came together.

13 Q. When was that one?

14 A. About -- about 1990.

15 Q. Did you have a valid Driver's License when that wreck
16 happened?

17 A. Yes.

18 Q. You did.

19 A. Uh-huh (affirmative response).

20 Q. All right. And you mentioned one other one that you
21 mentioned before this one?

22 A. Yes.

23 Q. When was that one?

24 A. Right there where the Coca-Cola plant at, ---

25 Q. Yes, sir.

1 A. -- I was coming around that curve, and a car pulled
2 in, cut in front of me and hit it in the side.

3 Q. Okay. And when was that?

4 A. That was -- that was in the late '70's.

5 Q. Late '70's?

6 A. Yes.

7 Q. So, this wreck that happened in 2016 would have been
8 the first automobile collision that you were involved
9 in in -- since the late '70's?

10 A. '76. '70. That one over there was later than the
11 '70's on Harvin.

12 Q. When was that one?

13 A. Where we -- where the light was guiding us into each
14 other?

15 Q. Yes, sir.

16 A. I think that was about 1990.

17 Q. Okay. You said that. So, you did say that. I
18 apologize. So, a better question would have been, had
19 you -- prior to the wreck that we are here for today
20 on July 24th, 2016, the last time you had been in a
21 motor vehicle wreck would have been 1990 at some point
22 in time?

23 A. Yes.

24 Q. Okay. Been in any wrecks since -- since this one that
25 happened in 2016?

1 A. No.

2 Q. Okay. So, your entire life you have been in four

3 wrecks?

4 A. Yes.

5 Q. No more, no less?

6 A. No -- no more, no less.

7 Q. Okay. Have you ever had to file a claim against

8 someone for injuries you received in a wreck?

9 A. I didn't file no claim in '76. We just settled.

10 Q. Settled who?

11 A. The insurance company.

12 Q. Okay.

13 A. And when I had that one over there, they -- they told

14 me that they was going to see that they get me

15 straightened out, but they never did.

16 Q. Okay. Have you had -- have you had to have a lawyer

17 before for a wreck that happened?

18 A. No.

19 Q. You never have had one?

20 A. No.

21 Q. Okay. This is the first time you had to have a

22 lawyer?

23 A. Yes.

24 Q. Okay. And you never had -- have you ever had a wreck

25 while your License was suspended?

1 A. No.

2 Q. Okay. And let's talk about -- first of all, let's
3 talk about what happened on the day of this wreck,
4 July 24th, 2016. Whose vehicle were you driving that
5 day?

6 A. My wife's.

7 Q. Okay. And her name is Sharon Prothro?

8 A. Right.

9 Q. Okay. And what kind of vehicle was it?

10 A. 19 -- I forgot the year -- Contour, Ford Contour.

11 Q. And whose vehicle was that?

12 A. Sharon's.

13 Q. Okay. And I ask this question also. As of July 24th,
14 2016, were you suffering from any major medical
15 conditions?

16 A. No.

17 Q. You told me -- you told me you take medication for
18 gout earlier?

19 A. Right.

20 Q. That day, were you taking any sort of medications or
21 anything like that?

22 A. No.

23 Q. Okay. So, you were in pretty good physical health?

24 A. Yes.

25 Q. Okay. Back at that time, July 24th, 2016, were you

1 treating with a psychiatrist or ---

2 A. No.

3 Q. Were you treating for any kind of mental health
4 conditions?

5 A. No.

6 Q. Nothing like that?

7 A. No.

8 Q. Okay. On July 24th, 2016, were you driving that Ford
9 Contour?

10 A. Yes.

11 Q. Okay. When is the last time prior -- when is the last
12 time you had driven that vehicle before July 24th,
13 2016?

14 A. I think about two weeks before then.

15 Q. Two weeks before then?

16 A. Yes.

17 Q. Okay. How about before that?

18 A. Maybe a week before.

19 Q. A week before that?

20 A. Yes.

21 Q. Okay. And you mentioned -- you mentioned your current
22 address that you have been living in since May of this
23 year; is that right?

24 A. Yes.

25 Q. I didn't ask you this earlier. Where were you living

1 prior to moving into the apartment in May?

2 A. 111 Crescent Avenue.

3 Q. Okay. Is that the same address that you had when this
4 collision happened on July 24th, 2016?

5 A. Yes.

6 Q. How long were you living there for?

7 A. Twelve (12) years.

8 Q. Twelve (12) years?

9 A. Yes.

10 Q. Who all lived there?

11 A. Just me and Sharon.

12 Q. Just you and your wife?

13 A. Yes.

14 Q. Okay. And does your wife, does she have a job right
15 now; does she work?

16 A. No.

17 Q. Okay. And where -- did she used to work?

18 A. Yes.

19 Q. Where did she work?

20 A. Cooper Tools.

21 Q. Cooper Tools?

22 A. Yes.

23 Q. That is the last job she had?

24 A. She worked for the Sportsman.

25 Q. Up on 15?

1 A. Yes.

2 Q. Okay. When's -- when is the last time she -- that she
3 worked; do you recall?

4 A. No.

5 Q. Was she working when this -- when this wreck happened?

6 A. No.

7 Q. She didn't have a job then?

8 A. No.

9 Q. All right. And you all -- the house you lived in on
10 Crescent Avenue, can you describe that house for me?
11 Like how -- how big was it, how many bedrooms did it
12 have; can you describe the house for me?

13 A. It's a duplex.

14 Q. Yes, sir.

15 A. We lived in one side and another family lived in the
16 other side. We had two bedrooms.

17 Q. I got you. Did it have an upstairs and a downstairs?

18 A. No.

19 Q. Just -- just one floor?

20 A. Right.

21 Q. All right. Who was the other family that lived next
22 to you?

23 A. Smalls.

24 Q. Smalls?

25 A. Yes.

- 1 Q. Which -- which Smalls? Do you remember their first
2 names?
- 3 A. Ms. Marie Smalls.
- 4 Q. Marie Smalls?
- 5 A. Yes.
- 6 Q. Was she -- was she your neighbor back in 2016?
- 7 A. Yes.
- 8 Q. Around the time this happened?
- 9 A. Yes.
- 10 Q. Okay. And in your household there at 111 Crescent
11 Avenue, how many vehicles were there?
- 12 A. One.
- 13 Q. Okay. That -- and that is the same Ford Contour you
14 mentioned earlier?
- 15 A. Yes.
- 16 Q. Okay. And how -- how long had you just had one
17 vehicle in the household?
- 18 A. That's all we ever had.
- 19 Q. That is all you ever had?
- 20 A. Yes.
- 21 Q. So, since you have been married to Ms. Prothro, you
22 have just had one vehicle in the household?
- 23 A. Right.
- 24 Q. Who owned that vehicle?
- 25 A. Sharon.

1 Q. Did you have permission to drive the vehicle?

2 A. What?

3 Q. Did you have permission to drive the vehicle?

4 A. No.

5 Q. You did not?

6 A. No.

7 Q. Okay. But you were driving it -- you were driving it
8 on July 24th, 2016?

9 A. Yes.

10 Q. You had permission to drive it that day?

11 A. No.

12 Q. All right. You mentioned you had driven it two weeks
13 -- two weeks prior to that. Did you have permission
14 to drive the vehicle that day?

15 A. No.

16 Q. You mentioned you had it a week prior to that. Did
17 you have permission to drive the vehicle that day?

18 A. No.

19 Q. Okay. So, how -- how did you end up driving the
20 vehicle?

21 A. Just get the key and go.

22 Q. You just got the key and go. Where was the vehicle --
23 where was the key kept?

24 A. On the dresser or somewhere in the house.

25 Q. Who -- whose dresser?

1 A. Our dresser. Our dresser.

2 Q. Okay. So, on July 24th, 2016, did you get the key off
3 the dresser that day?

4 A. Yes.

5 Q. Was that dresser in the bedroom -- you and Ms.
6 Prothro's bedroom?

7 A. Yes.

8 Q. Okay. And the two weeks prior to that, you said you
9 drove the vehicle that day. Where did you get the key
10 from that day?

11 A. Probably the same place.

12 Q. Okay. Let's go back to the week before that. You
13 talked about ---

14 A. Same place.

15 Q. The same place. All right. Was -- is that where the
16 key always was?

17 A. Just about -- most the time.

18 Q. Was there any other -- was there any other key in the
19 household that went to that Ford Contour?

20 A. No.

21 Q. Okay. That's a -- that is the only car you had in the
22 household?

23 A. Right.

24 Q. Okay. Where was -- where was Ms. Sharon Prothro when
25 you left the house on July 24th, 2016?

1 A. There, asking me not to go.

2 Q. There, asking you not to go?

3 A. Yes.

4 Q. But you did anyway?

5 A. Yes.

6 Q. Okay. Where was she two weeks earlier prior to that
7 when you took the car?

8 A. I can't recall. Maybe -- she might have been next
9 door.

10 Q. Might have been next door?

11 A. Yes.

12 Q. But you can't recall?

13 A. No.

14 Q. All right. How about prior to that?

15 A. I can't recall.

16 Q. Okay. So, tell me about -- tell me about when you got
17 up on July 24th, 2016. What time did you wake up that
18 morning?

19 A. Probably about 6:30 that morning.

20 Q. 6:30 that morning?

21 A. Yes.

22 Q. Okay. And what did you do when you got up that
23 morning?

24 A. Walked around in the yard for a while.

25 Q. Walked around in the yard for a while?

- 1 A. Yes.
- 2 Q. Doing what?
- 3 A. Went in the house and got the key.
- 4 Q. Okay. But you said you were walking around in the
- 5 yard for a while first you said; right?
- 6 A. Right.
- 7 Q. What were you doing walking in the yard?
- 8 A. I was kind of angry.
- 9 Q. What were you angry about?
- 10 A. We had an argument.
- 11 Q. Who had an argument?
- 12 A. Me and my wife.
- 13 Q. First thing that morning?
- 14 A. Overnight.
- 15 Q. Overnight?
- 16 A. I still was mad the next morning.
- 17 Q. I understand. What was the argument about?
- 18 A. I can't remember what it was about.
- 19 Q. It was a bad argument?
- 20 A. Not too bad.
- 21 Q. It was an overnight argument?
- 22 A. Well, no, not overnight.
- 23 Q. Okay. But you can't remember what it was about? As
- 24 we sit here right now, you can't remember what the
- 25 argument was about?

1 A. No.

2 Q. Okay. But you know you were in an argument?

3 A. Yes.

4 Q. All right. And so, you walked around the yard, and
5 then -- then what did you do?

6 A. Went in the house and -- and grabbed up the keys.

7 Q. Okay. From the same dresser you mentioned earlier?

8 A. Yes.

9 Q. Okay. Did your wife know that you -- you were leaving
10 the house in her vehicle?

11 A. She knew, but she was trying to get me not to go with
12 it.

13 Q. Okay. How did she -- how did she try to get you not
14 to go with it?

15 A. She asked me come back, don't take the car.

16 Q. Okay. Did she tell you why you shouldn't take the
17 car?

18 A. No, she was just telling me, "Don't go, don't take the
19 car."

20 Q. Okay. And, you know, you testified earlier when I
21 asked you, I think you said that, since your License
22 has been suspended, you drove roughly two times a
23 month. Do you remember saying that?

24 A. Yes.

25 Q. On every one of those occasions, did your wife try to

1 stop you from driving the vehicle?

2 A. Not all the time.

3 Q. Okay. How many -- how many times did she -- did she
4 tell -- did she try not -- did she not try to stop you
5 from driving the vehicle?

6 A. Most of the time, she did try to stop me.

7 Q. She didn't try to stop you?

8 A. Most the time she did try to stop me.

9 Q. She did?

10 A. Yes.

11 Q. Did she ever put the keys somewhere else or anything
12 like that?

13 A. No.

14 Q. Did she ever hide the keys from you?

15 A. No.

16 Q. Okay. Did -- did your wife know that you had
17 suspended Driver's License?

18 A. Yes.

19 Q. You think she knew that for the entire time it was
20 suspended?

21 A. Yes.

22 Q. Have you ever had a valid Driver's License since you
23 and Ms. Sharon Prothro have been married?

24 A. Yes.

25 Q. You have?

1 A. Yes.

2 Q. How long a period of time did you have a valid
3 Driver's License during the time you were married?

4 A. Let's see. I had License when we got married.
5 Probably about five years.

6 Q. Five years?

7 A. Yes.

8 Q. Okay. And did she -- did Ms. Prothro know when your
9 License got suspended?

10 A. Yes.

11 Q. Okay. Did -- did she know your License was suspended
12 during the entire time it has been suspended?

13 A. Yes.

14 Q. Okay. Did she know that you were driving her vehicle
15 at least two times a month as you testified earlier
16 during the time your License was suspended?

17 A. Yes.

18 Q. Okay. And so, tell me, you mentioned that you got the
19 keys on that morning on July 24th, 2016, and where --
20 where did you go?

21 A. I went by Gloria's uncle's house.

22 Q. Okay. You are talking about Gloria Oliver, my client?

23 A. Right.

24 Q. Who is her uncle?

25 A. James Cummings.

1 Q. James Cummings?

2 A. Yes.

3 Q. Okay. How did you know him?

4 A. I -- Gloria's mother used to be my girlfriend, and
5 James is her uncle.

6 Q. Okay. How long ago ---

7 A. And ---

8 Q. I'm sorry. I didn't mean to interrupt you. Go ahead.

9 A. And me and him were kind of like buddies; so, when I
10 went -- I got in the car and I went to his house and
11 we went to Gloria's house, and she asked me would she
12 give her a ride to Wal-Mart.

13 Q. Yes, sir.

14 A. I said "Okay." We went to Wal-Mart and she went in
15 the store and shopped. Me and James were out in the
16 car. She came out with her groceries and as I was
17 backing out, a car was coming behind me and I don't
18 know how I did this, but what I figure out later was
19 that my foot was on the gas and the brakes at the same
20 time, and as I seen the car coming, I went to mash the
21 brakes and the car back on up and they were yelling,
22 "Look at that car," and I hit it. And the car kept
23 backing and I was just steady mashing and steady going
24 back. And I must have panicked or something and just
25 keep going back and I'm steady mashing, and I realized

1 after it happened I realized I was mashing the gas and
2 the brakes at the same time. And what stopped me was
3 a tree.

4 Q. A tree stopped you?

5 A. Yeah.

6 Q. Okay. And I -- I just want to back up and ask you a
7 few -- a few questions about that. So, what time do
8 you think -- you went and you said you picked up Mr.
9 Cummings first?

10 A. Right.

11 Q. And then you went straight over to Ms. Oliver's house?

12 A. Right.

13 Q. Was that your idea or his idea to go over there?

14 A. I don't know.

15 Q. Okay. And at some point in time, you agreed to take
16 Ms. Oliver to Wal-Mart; is that what you said?

17 A. Right.

18 Q. Okay. Did she just ask for a ride to Wal-Mart or
19 anywhere else?

20 A. Just Wal-Mart.

21 Q. Do you remember why she needed a ride there?

22 A. To shop, buy groceries.

23 Q. Do you remember what she needed groceries for?

24 A. I don't understand.

25 Q. Yes, sir.

1 A. I didn't understand you.

2 Q. Oh, I'm sorry. Do you know what she needed groceries
3 for, anything in particular?

4 A. I guess just buying groceries.

5 Q. Okay. So, you -- you gave her a ride?

6 A. Right.

7 Q. Okay. And prior -- prior to her being in your vehicle
8 -- well, let me ask you this question. Did you
9 believe that on July 24th, 2016 that you -- that you
10 had insurance, valid insurance, on that vehicle?

11 A. Did I have valid insurance?

12 Q. Well, you would agree with me that to drive legally in
13 South Carolina, you need insurance on your vehicle; is
14 that correct?

15 A. Yes.

16 Q. You can't drive -- you can't -- you are not supposed
17 to drive without insurance; right?

18 A. Right.

19 Q. Okay. So, on July 24th, 2016, when you got in that
20 vehicle and went to Mr. Cummings' house and went to
21 Ms. Oliver's house, did you believe that you were
22 covered by insurance that day?

23 A. Yes.

24 Q. You did?

25 A. No, no, no, no. Because I wasn't on the policy.

1 Q. Okay. So, you did not believe you were covered by
2 insurance that day?

3 A. No.

4 Q. Okay. Did you ever tell Ms. Oliver on that day that
5 you were not covered by insurance?

6 A. No.

7 Q. Did she ever ask you that day if you were covered by
8 insurance?

9 A. No.

10 Q. Okay. So, that -- that topic didn't come up?

11 A. No.

12 Q. Would Ms. Oliver, who got in your car that day, would
13 she -- would anybody have ever told her to your
14 knowledge that you didn't have insurance on the
15 vehicle or that you were not an insured driver? I'll
16 strike that question and I will ask you an easier way.
17 Are you aware of whether or not Ms. Oliver would have
18 known that you had insurance on the vehicle -- whether
19 or not you had insurance on the vehicle?

20 A. No. No.

21 Q. She would not have known?

22 A. I don't think she would know.

23 Q. Okay. But you didn't tell her?

24 A. No.

25 Q. And she didn't ask you?

- 1 A. No, she didn't ask me.
- 2 Q. Okay. And so, would you all have driven straight from
- 3 her house to the Wal-Mart?
- 4 A. Yes.
- 5 Q. All right. And you parked in a parking spot, I guess?
- 6 A. Right.
- 7 Q. And was that the Wal-Mart Neighborhood -- the small
- 8 Wal-Mart Neighborhood Grocery on Bultman Drive?
- 9 A. Right.
- 10 Q. Okay. And do you remember what day of the week that
- 11 was?
- 12 A. Sunday.
- 13 Q. It was a Sunday. Okay. And how long do you think Ms.
- 14 Oliver was in the store?
- 15 A. Probably about a half hour.
- 16 Q. Half hour?
- 17 A. About that -- about that long.
- 18 Q. Okay. And what did you do while she was in the store?
- 19 A. Sit in the car.
- 20 Q. Sat in the car?
- 21 A. Yes.
- 22 Q. With Mr. Cummings?
- 23 A. Right.
- 24 Q. Did you all talk about anything in particular or do
- 25 anything in particular or just sat there?

1 A. Just sat there.

2 Q. Ms. Oliver -- Ms. Oliver came out at some point?

3 A. Yes.

4 Q. Okay. And now I think you -- I want to go back
5 through this and ask you some specific questions. So,
6 she got back in the vehicle with her groceries?

7 A. Right.

8 Q. And where was she -- do you remember where she was
9 sitting?

10 A. In the back seat.

11 Q. In the back eat?

12 A. Yes.

13 Q. Okay. And so, you went to leave?

14 A. Yes.

15 Q. All right. And where -- where was -- where was the
16 gearshift on that vehicle?

17 A. Down on the ---

18 Q. On the ground so to speak, not -- not on the column?

19 A. Not on the column.

20 Q. Okay. And so, you put it in reverse?

21 A. Yes.

22 Q. And what did you say happened from there?

23 A. As I was backing up, a car was turning, and when I
24 went to mash my brakes to stop, the car keep going.

25 Q. The car kept going?

1 A. Yes.

2 Q. And why do you believe the car kept going?

3 A. Because my foot was on the gas and the brakes.

4 Q. Okay. Do you believe that car has -- had any
5 mechanical problems at the time?

6 A. No.

7 Q. You don't. You -- how long had you all had that car
8 for?

9 A. About two years or more.

10 Q. Two years or more?

11 A. Yes.

12 Q. Had you driven it before? Before -- had you driven it
13 before July 24th, 2016?

14 A. Yes.

15 Q. Okay. And to -- to your knowledge, have the brakes
16 ever given out on you or your wife?

17 A. No.

18 Q. To your knowledge, had the accelerator on the vehicle
19 ever gotten stuck or anything like that?

20 A. No.

21 Q. So, you don't think a mechanical problem caused this?

22 A. No.

23 Q. Okay. And so, you mentioned you were backing out.

24 How many objects do you believe the vehicle collided
25 with before it stopped?

1 A. Four.

2 Q. Four?

3 A. I think.

4 Q. Were any of those vehicles; were any of those other
5 vehicles?

6 A. Yes.

7 Q. How many other vehicles do you think it hit before it
8 stopped?

9 A. I think four.

10 Q. Four. But you said at some point in time you hit a
11 tree as well?

12 A. Yes.

13 Q. So, you believe that is what stopped it?

14 A. Yes.

15 Q. Okay. And what -- during that -- during that ordeal,
16 from the time you started backing out until the time
17 you said you came to a stop against the tree, how much
18 time do you think went by?

19 A. Probably about a minute.

20 Q. A minute went by?

21 A. Yes.

22 Q. What do you think the fastest speed you ever got up to
23 during that period of time was?

24 A. Probably about seven miles an hour.

25 Q. Seven miles an hour?

1 A. Maybe.

2 Q. Would you consider that to be a high rate of speed?

3 A. No.

4 Q. During -- during the time the vehicle was in reverse,
5 do you think it ever got up to a high rate of speed?

6 A. No.

7 Q. What would you consider to be a high rate of speed?

8 A. In reverse?

9 Q. Reverse or forward.

10 A. A high rate of speed?

11 Q. Yes, sir.

12 A. In a parking lot?

13 Q. Yes, sir. That's fair.

14 A. Fifteen (15) miles an hour.

15 Q. Fifteen (15) miles an hour would be a high rate of
16 speed in reverse in a parking lot?

17 A. Yes.

18 Q. You don't believe you were going that fast?

19 A. No.

20 Q. Okay. Did you ever get a chance to look at the damage
21 to the other vehicles that were struck in the parking
22 lot?

23 A. Yes.

24 Q. Can you describe the damage to those vehicles?

25 A. Had little bents in the side and stuff.

1 Q. Little bents in them?

2 A. Yes.

3 Q. Were they -- were they all drivable as far as you know
4 from the scene?

5 A. Yes.

6 Q. They were?

7 A. Yes.

8 Q. Okay. And did any of Wal-Mart's property get struck
9 or destroyed or messed up or anything like that?

10 A. Just the tree.

11 Q. One tree?

12 A. I think it was two.

13 Q. Two trees. Okay. What did the trees look like? What
14 did the trees look like when you got out; what was the
15 damage to them?

16 A. Push -- pushed to the side.

17 Q. Okay. When you were -- when you were backing up
18 during that period of time, you said -- you said about
19 a minute from the time you started backing up until
20 the time your vehicle finally stopped, what was Mr.
21 Cummings doing the whole time?

22 A. Yelling.

23 Q. What was he yelling?

24 A. "Stop. Stop."

25 Q. Okay.

1 A. Both of them were yelling "Stop."

2 Q. What -- did Mr. Cummings do anything -- did Mr.
3 Cummings do anything during that period of time
4 besides yell?

5 A. No.

6 Q. Did Ms. Oliver do anything during that period of time
7 besides yell?

8 A. No.

9 Q. She didn't get out of the vehicle?

10 A. Yes, after -- after -- after it happened, somebody
11 came on up that she knew and she asked them would they
12 give her a ride, and they told her "Yeah." She got
13 her groceries and got out of the car before the cops
14 came there.

15 Q. Okay. We will talk about that in a second. I want to
16 ask you at what point in time did she -- did she get
17 out of the vehicle?

18 A. Right after -- right after we stopped and somebody
19 came over, she saw somebody right then ---

20 Q. Okay.

21 A. -- and jump out of the car and left.

22 Q. Let me ask you this question. After she got out of
23 the vehicle, did you continue to back the vehicle up
24 after that?

25 A. No. I didn't move. I sit right there under the

1 steering wheel until the cops came.

2 Q. So -- so, your testimony is, is that Ms. Oliver did
3 not get out of the vehicle until it was done moving
4 and it was up against the tree or the two trees?

5 A. Right.

6 Q. Okay. And so, you said the police came at some point
7 in time?

8 A. Yes.

9 Q. What happened then?

10 A. When he came, I asked him could I get out and check on
11 the peoples' cars that I hit and he told me, "Yeah,"
12 and me and him went. People saying, "What's wrong
13 with you"? I was telling them that I'm sorry and I
14 didn't know what happened. And he talked to me and he
15 gave me a ticket for reckless driving, and they took
16 me to the -- to the jail-house.

17 Q. So, he arrested you?

18 A. Yes.

19 Q. Okay. How much -- did you have any -- did you have a
20 chance to talk to anybody else at the scene about it
21 after it happened?

22 A. No.

23 Q. How fast do you -- how fast -- after your car came to
24 a stop, how long do you think it took for the police
25 officer or law enforcement officer to get to the

1 scene?

2 A. Probably about ten minutes.

3 Q. Okay. Ten minutes?

4 A. Yes.

5 Q. Your testimony is you sat in the car the whole time?

6 A. Yes.

7 Q. And Ms. Oliver got out of the vehicle?

8 A. Yes.

9 Q. How about -- how about Mr. Cummings, did he get out
10 the vehicle?

11 A. No, he didn't get out either. Oh, yeah. Well, no, he
12 didn't get out until the cops got there.

13 Q. Okay. And what all did the officers do at the scene;
14 did they -- did they give you any field sobriety
15 tests?

16 A. No.

17 Q. They didn't do anything like that?

18 A. No.

19 Q. Did you ever tell the officer that you had been
20 drinking or anything like that?

21 A. What?

22 Q. Did you ever tell the officer that you had been
23 drinking?

24 A. Yes.

25 Q. You did. What did you tell the officer?

1 A. That I had been drinking the night before and that I
2 was upset.

3 Q. Okay. And the night -- let me ask you this question.
4 In the twelve (12) hours prior to this collision
5 happening, would you agree the collision happened
6 around 9:30 in the morning?

7 A. Yes.

8 Q. Okay. Had you consumed alcohol twelve (12) hours
9 prior to this collision?

10 A. Yes.

11 Q. So, from 9:30 the previous night until 9:30 that
12 morning, you had consumed alcohol?

13 A. Yes.

14 Q. How much did you have?

15 A. Probably a half a pint.

16 Q. Half a pint?

17 A. Yes.

18 Q. Half a pint of what?

19 A. Liquor.

20 Q. Okay. What kind of liquor was it?

21 A. Vodka.

22 Q. Half a pint of Vodka?

23 A. Yeah.

24 Q. All right. Were you drinking that straight or with
25 something else?

- 1 A. Straight.
- 2 Q. All right. When do you think -- when did you consume
- 3 that?
- 4 A. Probably -- probably about -- I had it that morning
- 5 when I -- when I got up.
- 6 Q. Had you had anything the night before?
- 7 A. Yes.
- 8 Q. What did you have then?
- 9 A. Some beer and Vodka.
- 10 Q. All right. How much Vodka did you have the night
- 11 before?
- 12 A. Maybe a pint.
- 13 Q. All right. How much beer did you have the night
- 14 before?
- 15 A. Probably about four.
- 16 Q. Four?
- 17 A. Yes.
- 18 Q. Bottle or cans?
- 19 A. Cans.
- 20 Q. What size cans?
- 21 A. Twenty-four (24) ounce.
- 22 Q. Four twenty-four (24) ounce cans?
- 23 A. Yeah.
- 24 Q. All right. Do you remember what -- what brand it
- 25 would have been?

1 A. Schlitz Malt Liquor.

2 Q. Okay. Mr. Prothro, is that what you and your wife
3 were fighting about? You mentioned you all had been
4 in a fight earlier. Is that what you all were
5 fighting about?

6 A. No.

7 Q. It was not?

8 A. No.

9 Q. But you can't remember what it was that you all were
10 fighting about?

11 A. Seem like it's coming to me. She told me I was mean
12 because something with -- something was going on. She
13 probably can tell you that.

14 Q. I can ask her. Did -- did your wife know you had been
15 drinking the night before?

16 A. Yes.

17 Q. Did your wife know you had been drinking that morning?

18 A. I don't know about that morning.

19 Q. Okay. But you stayed in the house -- you stayed in
20 the house on Crescent Avenue that night; correct?

21 A. Yes.

22 Q. Was she staying there that night as well?

23 A. Yes.

24 Q. And she was there at some point when you got up and
25 left; right?

- 1 A. Yes.
- 2 Q. Okay. Which you don't know if she knew you were
- 3 drinking that morning or not?
- 4 A. I don't know.
- 5 Q. Where -- where had you been when you consumed the --
- 6 the Vodka that morning?
- 7 A. Sir?
- 8 Q. Where would you have been when you drank the Vodka
- 9 that morning?
- 10 A. Somewhere in the house.
- 11 Q. Okay. Somewhere in the house?
- 12 A. Yeah.
- 13 Q. All right. And so, you said that going back to the
- 14 scene, you said that when law enforcement came to the
- 15 scene, they actually arrested you and took you to
- 16 Sumter Lee County Detention Center?
- 17 A. Yes.
- 18 Q. And charged you with reckless driving?
- 19 A. Right.
- 20 Q. Did they charge you with anything else at all?
- 21 A. No.
- 22 Q. Okay. And did you -- did you have a License then?
- 23 A. No.
- 24 Q. Do you know why they didn't charge you with Driving
- 25 Under Suspension?

1 A. No.

2 Q. You might not know, but did you have any conversation
3 about that with the officer at all?

4 A. No.

5 Q. Okay. And how long did you have to -- how long did
6 you stay in the jail for over there?

7 A. Until the next morning.

8 Q. The next morning?

9 A. Yes.

10 Q. So, Monday morning?

11 A. Yes.

12 Q. Okay. Did you get a bond set for you or did they just
13 let you go?

14 A. They let me go.

15 Q. Okay. What happened -- what happened to that vehicle?
16 What happened to that Ford Contour; do you know?

17 A. We junked it.

18 Q. You jumped it?

19 A. Junked it.

20 Q. You junked it?

21 A. Yeah.

22 Q. Okay. I got you. It was totaled?

23 A. No, it wasn't totaled. It was drivable, but it was
24 bent up.

25 Q. Okay. Did -- did your wife ever drive it again after

1 July 24th, 2016?

2 A. Yes.

3 Q. Your wife did drive it?

4 A. Yes.

5 Q. Okay. How -- for how long?

6 A. Maybe a few days.

7 Q. A few days?

8 A. Yes.

9 Q. Did you ever drive that Ford Contour again ---

10 A. No.

11 Q. -- after July 24, 2016?

12 A. No.

13 Q. You did not?

14 A. No.

15 Q. Okay. So, what -- how long after this wreck did you
16 all get rid of that vehicle or junk the vehicle as you
17 said?

18 A. It sat in the yard for maybe a month.

19 Q. A month?

20 A. Yeah.

21 Q. Were you all -- was your wife able to get another car
22 after that?

23 A. Yes.

24 Q. Okay. What kind of vehicle is that?

25 A. A Sedona.

1 Q. Okay. Is she still driving that vehicle?

2 A. Yes.

3 Q. Have you ever driven that vehicle?

4 A. No.

5 Q. You have never driven it?

6 A. No.

7 Q. Okay. Have you -- have you driven any vehicle since
8 July 24th, 2016?

9 A. No.

10 Q. Okay. So, if somebody said they saw you driving since
11 July 24th, 2016, they would be lying?

12 A. Yeah.

13 Q. Okay. All right.

14 A. Somebody -- somebody asked me one day, "Are you still
15 driving"? I told them, "Yeah." But I wasn't.

16 Q. You told somebody you were still driving?

17 A. Yeah.

18 Q. Who did you tell that to?

19 A. Gloria.

20 Q. When did you tell her that?

21 A. On Manning Avenue.

22 Q. Do you remember when that was?

23 A. Last year sometime.

24 Q. Is there a reason why you told her that?

25 A. No.

- 1 Q. Okay. But that wasn't -- that wasn't the truth
2 though?
- 3 A. No.
- 4 Q. Okay. Bear with me one second.
- 5 A. Okay.
- 6 Q. Mr. Prothro, do you have any recollection of being
7 arrested for Driving Under Suspension around July
8 15th, 2016, which would have been about nine days
9 before this -- this incident happened?
- 10 A. Being arrested?
- 11 Q. Well, I'll scratch that question. Do you remember --
12 do you remember being charged with Driving Under
13 Suspension on around July 15th, 2016?
- 14 A. Yes.
- 15 Q. Okay. Were you driving that day?
- 16 A. Yes.
- 17 Q. All right. And which car were you driving?
- 18 A. The same one.
- 19 Q. The same Ford Contour?
- 20 A. Yes.
- 21 Q. Did you have permission to drive it that day?
- 22 A. No.
- 23 Q. You didn't. Did your wife know you were driving it
24 that day?
- 25 A. No. She was next door.

1 Q. Okay. So, she didn't know you were driving that day?

2 A. And I took it and went up the street.

3 Q. Okay.

4 A. And on the way back, they stopped me.

5 Q. Who stopped you?

6 A. The cop. Said I didn't -- he said that I didn't give
7 a signal at a -- when I was turning.

8 Q. Okay.

9 A. And he pulled me over and checked me and my License
10 was suspended.

11 Q. All right. And took -- and took you to jail for that?

12 A. No.

13 Q. They didn't take you to jail for that?

14 A. No.

15 Q. They wrote you a ticket for it?

16 A. Yes.

17 Q. Did your wife find out about that?

18 A. Yes.

19 Q. When did she find out?

20 A. Right then.

21 Q. Right then when you got home?

22 A. They -- they went to the house and got her and have
23 her to come and get the car and -- and let me go home.

24 Q. Okay. So, you -- you agree with me that wasn't --

25 that wasn't even two weeks prior to this -- this July

1 24th, 2016 wreck, was it?

2 A. Right.

3 Q. Okay. Bear with me one second. All right. And the
4 year -- a year prior to this collision happening on
5 July 24th, 2016, do you remember getting a ticket for
6 Driving Under Suspension around April 28th, 2015,
7 which would have been close to a year and three months
8 prior to this wreck; do you remember that one?

9 A. When was this date?

10 Q. I'm just asking you if you recall a Driving Under
11 Suspension charge that you had on April 28th, 2015
12 which would have been almost a year and three months
13 prior to the July 24th, 2016 wreck.

14 A. Do I remember that -- I can't remember that.

15 Q. So, you don't -- you don't remember the 2015 charge?

16 A. Let me think. When they stop me on North Main --
17 2015 -- I don't recall that.

18 Q. Okay. All right. And after July 24th, 2016, have you
19 had any more conversations with anybody else about
20 this collision?

21 A. No.

22 Q. Did you ever talk to -- did you ever give a statement
23 to the insurance company about the collision on July
24 24th, 2016?

25 A. I didn't.

1 Q. You never did?

2 A. I didn't.

3 Q. Okay. What happened with your reckless driving charge
4 that you got on July 24th, 2016?

5 A. What?

6 Q. What happened with your reckless driving charge that
7 you got on July 24th, 2016?

8 A. They gave me a fine to pay.

9 Q. Gave you a fine to pay?

10 A. Yes.

11 Q. Did you take care of that?

12 A. Yes.

13 Q. Okay. You didn't -- you didn't fight that or anything
14 like that?

15 A. No.

16 Q. Okay. Have you -- have you had any sort of traffic
17 incidents or traffic tickets since July 24th, 2016?

18 A. No.

19 Q. Okay. And I'm going to ask you a few questions. And
20 I'm getting to the end here, Mr. Prothro. I only get
21 one chance to ask you questions before -- before we go
22 to a trial; so, I want to make sure I ask you
23 everything. Are you -- are you aware of a -- of a
24 claim being filed on behalf of -- on behalf of Gloria
25 Oliver with Progressive Insurance Company as a result

1 of the July 24th, 2016 wreck?

2 A. Yes.

3 Q. Okay. And are you aware that that claim has been
4 denied by Progressive Insurance Company?

5 A. Yes.

6 Q. Okay. And are you -- are you aware that claims were
7 filed not only against the liability coverage of that
8 vehicle, but also the Uninsured Motorist coverage of
9 that Ford Contour?

10 A. Yes.

11 Q. You are aware of that?

12 A. Yes.

13 Q. And are you aware that -- that Progressive has denied
14 both of those claims?

15 A. Yes.

16 Q. And that is why we are here today?

17 A. Right.

18 MR. CRUDUP: Objection to the form.

19 Q. Okay. And you -- you understand that Progressive has
20 a -- you -- has anyone told you that Progressive has
21 a separate lawsuit against you and Ms. Oliver -- and
22 your wife, Ms. Oliver, and my client -- I'm sorry --
23 you and your wife, Ms. Prothro, and my client, Ms.
24 Oliver over that coverage, are you aware of that
25 lawsuit?

1 A. No.

2 Q. You are not aware of that?

3 A. Uh-uh (negative response).

4 Q. Okay. And you -- are you aware that my client, Ms.
5 Oliver, has made attempts to settle with Progressive
6 for inside of the coverage that your wife maintained?

7 A. No, I don't know about it.

8 Q. Okay. And do you understand that if Ms. -- if Ms.
9 Oliver were to get a verdict against you or your wife
10 and Progressive does not -- if Progressive doesn't --
11 doesn't end up paying that verdict, that you and your
12 wife will be personally liable for that? You
13 understand that?

14 A. I hear you.

15 Q. Has anyone talked to you about that from Progressive?
16 I don't want to know what your lawyer has talked to
17 you about; has anybody talked to you about that with
18 Progressive?

19 A. No.

20 Q. Has anyone with Progressive shared with you that we
21 have attempted to settle with them?

22 A. No.

23 Q. Okay. Mr. Prothro, are you -- are you aware of your
24 wife signing a -- an exclusion form on your policy
25 that would exclude you as a driver on the Progressive

1 policy that covered the Ford Contour that we are
2 talking about today?

3 A. Could you explain that?

4 Q. Well, I will just show you the piece of paper right
5 here and I'll -- I will mark this as Plaintiff's
6 Exhibit Number One on this deposition.

7 COPY OF NAMED DRIVER EXCLUSION ELECTION
8 MARKED PLAINTIFF'S EXHIBIT NUMBER ONE.

9 Q. Okay. I will show you this, and for identification
10 purposes, I will just -- I will just tell you that it
11 is a Named Driver Exclusion Election that has been
12 provided by your attorney in the course of our
13 Discovery. Have you ever seen that before?

14 A. Yes.

15 Q. You have seen that before?

16 A. Yes.

17 Q. When is the first time you saw that?

18 A. I guess when she first took out the insurance.

19 Q. Okay. You said, "When she first took out the
20 insurance." Who are you talking about; who is she?

21 A. Sharon.

22 Q. Okay. She would have told you about this or showed it
23 to you or both?

24 A. I was in there.

25 Q. You were with her?

1 A. Yes.

2 Q. Okay. You were with her at the insurance agent's
3 office?

4 A. Yes.

5 Q. Where was that?

6 A. It was on -- what is that? I can't think of the name
7 of that street. It's still out there. I can't -- I
8 can't think of the name of that street.

9 Q. Do you remember when that would have been?

10 A. No.

11 Q. You would agree with me that on this Exhibit that is
12 marked Plaintiff's Number One, can you read the date
13 on there?

14 A. April the 2nd, '09.

15 Q. And is that the date you were there at the insurance
16 office?

17 A. Yes.

18 Q. When your wife purchased insurance?

19 A. Right.

20 Q. Did that happen more than once or just one time?

21 A. Just once.

22 Q. Okay. And do you recognize that signature?

23 A. Yes.

24 Q. I'm going to ask your wife, but does that look like
25 her signature to you?

1 A. Yes.

2 Q. Okay. And so, did somebody -- did somebody at some
3 point in time tell you that you were an excluded
4 driver?

5 A. Yes.

6 Q. Who told you that?

7 MR. CRUDUP: Thomas, could I go
8 off the record for a minute?

9 MR. McELVEEN: Sure.

10 (OFF THE RECORD)

11 MR. McELVEEN: Back on the record.

12 EXAMINATION BY MR. McELVEEN CONTINUED:

13 Q. So, the last question I think I asked you, Mr.
14 Prothro, do you remember sitting there when this --
15 when this document was signed ten years ago?

16 A. Yes.

17 Q. Okay. Did it happen more than once or just the one
18 time?

19 A. One time.

20 Q. Did you all have the Ford Contour back in 2009? I'm
21 just wondering back in 2009, are we talking about the
22 same Ford Contour or a separate vehicle?

23 A. I'm not sure because we had another car before the
24 Contour.

25 Q. Okay. When this -- this exclusion -- you say you

1 think you were there when this was signed?

2 A. Yes.

3 Q. Okay. And in the time since that was signed, which is
4 roughly, what, ten years, you agree the wreck, this
5 wreck that we are here for today, happened about seven
6 years after this was signed; right?

7 A. Right.

8 Q. How many times do you think you drove in -- in those
9 seven years?

10 A. Not much.

11 Q. Okay. Let me -- let me ask you this question.
12 Between April 2nd, 2009 and July 24th, 2016, how many
13 times do you think you drove a vehicle that was
14 insured by -- by Progressive?

15 A. I couldn't say.

16 Q. You couldn't say?

17 A. No.

18 Q. Okay. Was it more than one time?

19 A. More than one time.

20 Q. More than five times?

21 A. More than five times.

22 Q. Okay. And so, earlier, I think you testified that
23 since you have been suspended, you probably drove a
24 household vehicle twice a month on average?

25 A. Yeah.

1 Q. All right. So -- so, you agree with me that between
2 April 2nd, 2009 and July 24th, 2016, that is about
3 seven years; right?

4 A. Yes.

5 Q. Seven and some change. All right. And eighty-four
6 (84) months twice a month, that's about a hundred and
7 sixty-eight (168) times. Do you think -- do you think
8 you drove more or less than a hundred and sixty-eight
9 (168) times between April 2nd, 2009 and July 24th,
10 2016?

11 A. I guess that's about -- about right.

12 Q. All right. Did your wife know about you driving the
13 car that many times?

14 MR. CRUDUP: Object to the form.

15 A. Not all the time.

16 Q. Or what -- out of -- out of all those times, how many
17 times do you think she knew about it?

18 A. A lot of times, she won't -- she'd be somewhere and
19 the car be there, and I'd just get in and go.

20 Q. Okay. So, out of the times that you just said that
21 you have driven the car in this seven year period, how
22 many times do you think she knew you were driving?

23 A. Maybe a third of the time.

24 Q. A third of the time. And let me ask you this
25 question. Did you ever have like a separate key that

1 you got made that she didn't know about?

2 A. No.

3 Q. Okay. And so, the key that you used is the same key
4 that she used?

5 A. Yes.

6 Q. All right. Was there any other keys that were around
7 the house or hidden anywhere?

8 A. Oh, I forgot. We had another key made one time
9 because we -- that car, you could crank it up, ---

10 Q. Yes, sir.

11 A. -- and let it heat up and while it was heating up, you
12 close the door and it would lock, and we did had
13 another key made.

14 Q. For the purposes of keeping it locked while it was
15 heating up?

16 A. Yes.

17 Q. Is that what you are saying?

18 A. No, no. While it was running, sometimes, you shut the
19 door and it would just lock with the key in it.

20 Q. Oh, it was a lock key. I got you.

21 A. Yes.

22 Q. So, you needed a backup plan to get in the vehicle?

23 A. Yeah, right.

24 Q. When did that start?

25 A. She can tell you better than me about that because I

1 don't -- I can't remember too good.

2 Q. Who kept up with the keys to the vehicle, to the Ford
3 Contour?

4 A. She did.

5 Q. Okay. But you never had like a separate key made that
6 she didn't know about?

7 A. No.

8 Q. Okay. All right. And just a few more questions I
9 promise you, Mr. Prothro, and I will stop asking
10 questions. On the day of July 24th, 2016, the
11 incident we are here for today, do you think you did
12 anything to cause the collision?

13 A. Yes.

14 Q. What do you think you did to cause the collision?

15 A. Like I said, I was mashing the brakes and the gas at
16 the same time.

17 Q. Okay. And do you think there was anybody else that
18 did anything to cause that collision?

19 A. No.

20 Q. All right. Do you think my client, Ms. Oliver, did
21 anything to cause that collision?

22 A. No.

23 Q. Okay. Do you think she did anything at all to cause
24 any -- any part of this incident to happen on July
25 24th, 2016?

1 A. No.

2 Q. Okay. I appreciate you answering my questions. And
3 you can answer any questions that your attorney may
4 have.

5 A. Okay.

6 MR. CRUDUP: I have no questions.

7 (THERE BEING NO FURTHER QUESTIONS, THE DEPOSITION WAS
8 CONCLUDED AT 6:07 P.M.).

9

1 STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER) CERTIFICATE

I, Doris Tompkins Brown, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, certify that I did have Richard Prothro appear before me commencing at 4:36 P.M. on December 2, 2019 at the offices of the Bryan Law Firm of SC, LLP, 17 East Calhoun Street, Sumter, South Carolina; that the witness was duly sworn and cautioned to tell the truth; that the foregoing pages constitute a true and accurate transcript of the testimony given at that time and place.

I hereby certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 6th of January, 2020.

Doris Tompkins Brown, CVR
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission expires: 4-02-2025

POLICY NUMBER 55178995-C
 SHARON PROTHRO
 Page 5 of 12

Named Driver Exclusion Election

You have named the following persons as excluded drivers under this policy:

RICHARD PROTHRO

Date of Birth May 5 1955

No coverage is provided for any claim arising from an accident or loss involving a motorized vehicle being operated by an excluded person. This includes any claim for damages made against any named insured, resident relative, or any other person or organization that is vicariously liable for an accident or loss arising out of the operation of a motorized vehicle by the excluded driver.

This form must be signed by the named insured.

I understand and agree that this Named Driver Exclusion election shall apply to this policy and any renewal, reinstatement, substitute, amended, altered, modified or replacement policy with this company or any affiliated company, unless a named insured revokes this election.

I declare that either the driver's license of the excluded persons named in this Named Driver Exclusion election has been turned into the Department of Motor Vehicles, or that an appropriate policy of liability insurance or other security as may be authorized by law has been properly executed in the name of the person to be excluded.

Signature of named insured

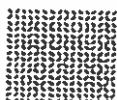
Date

X *Sharon G. Prothro*

4-2-20

Form 9330 SC (04/07)

Claim # 165237341



Continued

Deposition of - Sharon Prothro

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF SUMTER) C/A NO.: 2018-CP-43-1323

Gloria D. Oliver,)
Plaintiff,)
vs.)
Richard Prothro and Sharon Prothro,)
Defendants.)

Deposition of SHARON PROTHRO, taken by Doris
Tompkins Brown, Certified Verbatim Reporter and Notary
Public in and for the State of South Carolina, commencing
at 6:09 P.M. on December 2, 2019 at the offices of The
Bryan Law Firm, LLP, 17 East Calhoun Street, Sumter, South
Carolina.

APPEARANCES

ON BEHALF OF THE PLAINTIFF: Thomas E. McElveen, III
The Bryan Law Firm, LLP
Post Office Box 2038
Sumter, South Carolina

ON BEHALF OF THE DEFENDANTS: Jeffrey M. Crudup
Clarkson Walsh & Coulter
Post Office Box 2219
Mount Pleasant, S.C.



ON BEHALF OF PROGRESSIVE
NORTHERN INSURANCE COMPANY:

Sarah E. Caiello
Murphy & Grantland, P.A.
Post Office Box 6648
Columbia, South Carolina

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Letter dated 1/8/18 to Danielle Gamache from Bryan Law Firm	Pl. Ex. 5

* * * * *

(COURT REPORTER'S NOTE: --- INDICATES INTERRUPTION,
INCOMPLETE PHRASE, TRAILING OFF, INCOMPLETE SENTENCE)

1 The deposition of Sharon Prothro is being taken
2 pursuant to Notice and in accordance with the South
3 Carolina Rules of Civil Procedure and Amendments as adopted
4 by the Supreme Court which shall control the taking of said
5 deposition and its use thereof.

6 Counsel, with the specific consent of the witness,
7 waives the reading and signing of the deposition prior to
8 the time it is filed with the Court.

9 (Sharon Prothro, having been duly sworn, testifies as
10 follows:)

11 EXAMINATION BY MR. McELVEEN:

12 Q. Good evening, Ms. Prothro.

13 A. How are you?

14 Q. I'm doing okay. I'm sorry we are here this late.

15 A. That's all right.

16 Q. We met earlier. My name is Thomas McElveen. Again,
17 I represent the Plaintiff in this action, Ms. Gloria
18 Oliver, in a lawsuit that has been brought against
19 your husband, Richard Prothro, and against you here in
20 Sumter County.

21 A. Yes.

22 Q. It relates to an incident that happened back on July
23 24th, 2016. And I know that you were sitting here
24 throughout your husband's entire deposition and I
25 appreciate you being here. I have still kind of got

- 1 to go over a few things with you as well.
- 2 A. Okay.
- 3 Q. Is this your first time doing this?
- 4 A. Yes.
- 5 Q. And so, I'm going to ask you some of the same
- 6 questions that you have probably had time to think
- 7 about. The first one is, are you currently under any
- 8 sort of care of a psychiatrist, mental health
- 9 professional or anything like that?
- 10 A. Yes.
- 11 Q. You are?
- 12 A. Yes.
- 13 Q. Okay. Can you tell me about that?
- 14 A. I go to Santee Mental Health Wateree. I see Dr. Davis
- 15 and I see the nurse, and I'm on two medications.
- 16 Q. Okay. Is there a certain condition that you have that
- 17 you treat with them for?
- 18 A. Anxiety ---
- 19 Q. Anxiety?
- 20 A. -- and PTSD.
- 21 Q. Okay. How long have you been -- how long have you
- 22 been treating for those conditions?
- 23 A. About eight years.
- 24 Q. Eight years?
- 25 A. Uh-huh (affirmative response). Yes.

1 Q. Okay. And I can -- I can assure you, Ms. Prothro, no
2 one wants to ask personal questions or anything like
3 that and that's really not why I'm here today, but I
4 only get one chance to ask you questions before we get
5 to a trial down the road. This is my only shot to ask
6 you questions; so, I'm -- I'm just trying to learn
7 more about you, mainly, for jury selection purposes.

8 A. I understand.

9 Q. And so, I don't mean to pry or anything like that, but
10 what sort of medications are you on currently?

11 A. I take Fluoxetine, 40 milligrams, and I take Prazosin,
12 one milligram.

13 Q. Okay. And are those for -- are those -- are those for
14 the same conditions that you just told me about?

15 A. Yes.

16 Q. Have you taken those today?

17 A. Yes.

18 Q. Do they affect your ability to do things, like, drive?

19 A. No.

20 Q. Okay. So, you can understand my questions and answer
21 them ---

22 A. Yes.

23 Q. -- today with no problems?

24 A. Yes.

25 Q. Is today -- other than it being 6:00 o'clock on Monday

1 night, is today like worse than any other day to take
2 your deposition or is it as good ---

3 A. No. With the medications, I'm doing fine.

4 Q. Okay. I don't think there is ever a good day to do
5 this, but I'm just -- I'm asking ---

6 A. I'm fine. I'm not nervous or anything.

7 Q. You can handle this today?

8 A. Yes.

9 Q. Okay. All right. Are you on any other medications or
10 anything like that today?

11 A. Yes.

12 Q. What else are you taking today?

13 A. I take two high blood pressure medicines. I take
14 Quinapril, 40 milligrams, and I take Amlodipine, ten
15 milligrams. I take Meloxicam for arthritis, fifteen
16 (15) milligrams. And I take Metformin for diabetes.

17 Q. Okay. And you have taken all that medication within
18 the last twenty-four (24) hours?

19 A. Yes.

20 Q. Does that -- does that affect your ability ---

21 A. Well, one of the mental health medicines, I take it at
22 night when I go to bed.

23 Q. Okay.

24 A. All the rest of them I take in the mornings.

25 Q. Okay. Does any of that medication make you drowsy?

1 A. No.

2 Q. Can you operate a motor vehicle while you are taking
3 that medication?

4 A. Yes, but when I first take it, I don't have to just
5 get out and drive unless -- and if I have a doctor's
6 appointment, I can get a ride with my sister or I can
7 call transportation from my health insurance.

8 Q. Okay.

9 A. I never get under the steering wheel when I'm not able
10 to drive.

11 Q. Understand. Did you drive here today?

12 A. Yes.

13 Q. And you probably got here what, 3:30 today?

14 A. Yes.

15 Q. So, you have been here for a while?

16 A. Yes.

17 Q. Are you going to have any problems driving home
18 tonight?

19 A. No.

20 Q. Okay.

21 A. I live right down Bartlette Street. I'm going
22 straight home.

23 Q. Okay. Understand. And just to go over a few things
24 with you again, I know you -- you heard this earlier,
25 but you are doing great. If I ask you a yes or no

1 question and your response is yes or no, just try to
2 use that word yes or no so the court reporter here can
3 pick it up.

4 A. Okay.

5 Q. I can understand what you are saying.

6 A. Okay.

7 Q. The same thing I told your husband about me asking
8 questions, sometimes, I want to jump ahead to the next
9 question before you have finished your answer, and
10 sometimes, ---

11 A. Right.

12 Q. -- you are going to know what I'm asking you and you
13 are going to start answering me and I'm going to
14 understand you, but she has a hard time getting that
15 down.

16 A. Okay.

17 Q. So, let's try not to talk over each other; okay?

18 A. Okay.

19 Q. The other thing is and I know you heard me say this,
20 is that, and I actually told you one time, that you
21 couldn't help Mr. Prothro.

22 A. I understand.

23 Q. And I understand why you wanted to try -- you are
24 trying to help, but during the course of this
25 deposition, you can't look to anybody else for -- for

1 answers. It's just our -- our rule; okay?

2 A. Okay.

3 Q. And you can certainly take a break if you need one.

4 A. I'm fine.

5 Q. But if you need one during the deposition, just tell
6 me.

7 A. I'll let you know if I need one.

8 Q. Okay. But you understand that if you talk to your
9 attorney -- this is the one time where, if you talk to
10 your attorney during a break, I can ask you about
11 those conversations that you have.

12 A. Okay.

13 Q. But I don't want you to tell me anything else that you
14 talked to your attorney about, period; okay?

15 A. Okay.

16 Q. That is attorney/client privilege and I'm not allowed
17 to ask questions and you don't have to answer them
18 about that. Okay?

19 A. Okay.

20 Q. And you understand also that while we are not in a
21 courtroom today, this is like a Court proceeding.
22 It's -- it's a deposition. You are under oath. You
23 understand that?

24 A. Yes.

25 Q. And you understand that the same penalties of perjury

1 would apply here as they would in a courtroom if you
2 don't tell the truth?

3 A. Yes.

4 Q. Okay. And if I ask you a question and, again, I mean,
5 we have been doing this for a while today. If I ask
6 you a question that you don't understand or you need
7 me to repeat it, just ask me. I'm -- I'm happy to do
8 that.

9 A. Okay.

10 Q. I asked several questions of your husband I think that
11 I had to restate or rephrase because I hadn't asked it
12 right. So, if you have a problem with a question,
13 just tell me, but again, if -- if you answer my -- if
14 I ask you a question and you answer it, I'm going to
15 assume that you understood my question and answered it
16 truthfully because you are under oath. Is that fair?

17 A. That's fair.

18 Q. Okay. And so, let's just start with, can you state
19 your full name for the record?

20 A. Sharon Wells Prothro.

21 Q. Okay. Was Wells your maiden name?

22 A. Yes. I was -- I was married before. He didn't
23 understand you. That's my pre -- pre first marriage
24 the Day -- that was the Day when he met me, but Wells
25 is my maiden name.

- 1 Q. Day was your first husband?
- 2 A. Yes.
- 3 Q. Okay. I understand. Wells is -- is your maiden name?
- 4 A. Yes.
- 5 Q. So, are you from Sumter County also?
- 6 A. Yes.
- 7 Q. Were you born and raised here?
- 8 A. Yes.
- 9 Q. Have you lived anywhere besides Sumter County?
- 10 A. No.
- 11 Q. All right. And the same questions that I asked him
- 12 earlier. What is your date of birth?
- 13 A. 1-22-1957.
- 14 Q. Okay. So, you are a little bit younger than your
- 15 husband?
- 16 A. Yes.
- 17 Q. All right. And do you know your Driver's License
- 18 Number?
- 19 A. 004455683.
- 20 Q. All right. And I'm gong to ask your Social Security
- 21 Number also. I don't want you to tell me that until
- 22 we go off the record.
- 23 A. Okay.
- 24 Q. We will go off the record and you give me that number.
- 25 A. Okay.

1 (OFF THE RECORD)

2 MR. McELVEEN: We can go back on the
3 record.

4 EXAMINATION BY MR. MCELVEEN CONTINUED:

5 Q. What is your current address?

6 A. 125 West Bartlette Street, Apartment 502.

7 Q. All right. And how long have you lived there for?

8 A. Since May the 6th of this year, 2019.

9 Q. And who do you live there with?

10 A. Richard Prothro.

11 Q. Okay. And prior to that, where did you live?

12 A. 111 Crescent Avenue.

13 Q. How long were you all there for?

14 A. About twelve (12) years.

15 Q. Okay. Did -- did you all own that property or ---

16 A. We rented.

17 Q. You rented. Who -- who did you rent from?

18 A. Robert Moses.

19 Q. You just moved out this year?

20 A. Yes.

21 Q. Was that the only home that you lived in while you
22 were married or were there other places that you ---

23 A. No, we lived at 895 Glisson Road.

24 Q. How long were you all there for?

25 A. Oh, probably about -- about seven years.

- 1 Q. Seven years. When were you all married?
- 2 A. June the 16th of 2008.
- 3 Q. Okay. Were -- were you all together before you got
- 4 married?
- 5 A. We've been together about twenty-two (22) years, I
- 6 think. We stayed together until we got married and
- 7 we're still together.
- 8 Q. Okay. So, you -- you have basically been -- you guys
- 9 have been together twenty-two (22) years straight
- 10 through?
- 11 A. No.
- 12 Q. No breaks or anything like that?
- 13 A. No breaks or anything.
- 14 Q. How long have you guys lived to -- how long have you
- 15 and Mr. Prothro lived together?
- 16 A. We lived together from about 1999 until now.
- 17 Q. Twenty (20) years roughly?
- 18 A. Yes.
- 19 Q. Okay. And the house that you were -- that you lived
- 20 in on Crescent Avenue, ---
- 21 A. Yes.
- 22 Q. -- that was where you lived when this incident
- 23 happened on July 24th, ---
- 24 A. Yes.
- 25 Q. -- 2016?

- 1 A. Yes.
- 2 Q. Okay. And can you kind of describe that -- that place
- 3 for me? He mentioned it was a ---
- 4 A. It's a duplex. It was another family in one side and
- 5 we lived in the other side. We had two bedrooms, a
- 6 kitchen, a living room and bathroom in the hall.
- 7 Q. One bathroom or two?
- 8 A. One.
- 9 Q. One bathroom. Do you know how many square feet that
- 10 place was?
- 11 A. No.
- 12 Q. Okay. And not to jump around too much, but your
- 13 maiden name was Wells. Were your parents from Sumter
- 14 County also?
- 15 A. Yes.
- 16 Q. And what part of Sumter County?
- 17 A. Off of Tindal Road, 15 South off the Old Manning Road.
- 18 Q. Is either of your parents still alive?
- 19 A. My mother's alive.
- 20 Q. Okay. What is her name?
- 21 A. Willie Mae Hastie.
- 22 Q. Is that T-Y or T-I-E?
- 23 A. T-I-E. They both related, but part of the family
- 24 spell their names with the Y and some with the other.
- 25 Q. Yes, ma'am. So, your mom is Willie Mae Hastie?

- 1 A. Yes.
- 2 Q. What kind of work did she do?
- 3 A. Domestic work.
- 4 Q. Does she -- does she live on her own now?
- 5 A. She still lives on Tindal Road.
- 6 Q. Okay. How about your father, what was his name?
- 7 A. My stepfather raised me. His name was Woodrow Hastie,
- 8 Senior.
- 9 Q. Okay. What kind of work did he do?
- 10 A. He worked at Georgia Pacific and farmed and retired
- 11 from Georgia Pacific.
- 12 Q. How -- how about your biological father, do you know
- 13 much about him or ---
- 14 A. I knew of him, but he's deceased.
- 15 Q. Okay. Do you know what kind of work he did or
- 16 anything like that?
- 17 A. No.
- 18 Q. Do you know his name?
- 19 A. Yeah, I know his name.
- 20 Q. What's his -- what was his name?
- 21 A. Julius Lavine.
- 22 Q. Julius Lavine was his name?
- 23 A. Uh-huh (affirmative response).
- 24 Q. So, where did you get -- where did Wells come from?
- 25 A. The Wells is my mother's maiden name. She wasn't

- 1 married to my father.
- 2 Q. I understand. Okay.
- 3 A. Uh-huh (affirmative response).
- 4 Q. I understand. All right. And do you have any
- 5 brothers and sisters?
- 6 A. Yes.
- 7 Q. Are they here in Sumter County?
- 8 A. I have one brother that lives in Elgin. He's -- he's
- 9 a child support deputy. He works in Columbia.
- 10 Q. Okay.
- 11 A. And I have a younger sister that lives in Fort
- 12 Washington, Maryland, and she's an accountant. And I
- 13 have an older sister that lives here. She's retired
- 14 from Cooper Tools after thirty-five (35) years.
- 15 Q. Okay. What is her name?
- 16 A. Patricia Williams.
- 17 Q. All right. And I think you might -- he might have
- 18 mentioned her.
- 19 A. That's my sister that he mentioned.
- 20 Q. Okay. And what -- who is her husband?
- 21 A. James Williams.
- 22 Q. What kind of work does he do?
- 23 A. He retired from McCrory Construction. He was a heavy
- 24 equipment operator.
- 25 Q. So, not -- not the funeral home Williams?

- 1 A. No.
- 2 Q. Okay. All right.
- 3 A. Construction.
- 4 Q. That is the only sister that you have living here,
5 only sibling you have in Sumter County?
- 6 A. In Sumter County, yes.
- 7 Q. That's what I'm interested in.
- 8 A. Other than -- other than the baby brother that lives
9 in Elgin. He's from Sumter, but he -- he's -- he
10 resides in Elgin.
- 11 Q. Yeah, I'm really concerned about the ones who live
12 here now mainly. That's for if we get to a jury
13 trial, ---
- 14 A. Okay.
- 15 Q. -- I will use that information for Sumter County.
- 16 A. Okay.
- 17 Q. And so, did you have -- do you have any children?
- 18 A. Yes.
- 19 Q. How many children do you have?
- 20 A. Two.
- 21 Q. Okay. And what are -- what are you kids' names?
- 22 A. My oldest son is Deron Day. He's in the Air Force.
23 And he resides in Lexington, South Carolina.
- 24 Q. Okay. Is he married?
- 25 A. Yes.

- 1 Q. Is he married to someone from Sumter or somewhere ---
- 2 A. No, someone from Fayetteville.
- 3 Q. Okay. And he is with the Air Force you said?
- 4 A. Yes.
- 5 Q. All right. And what was -- what was your first
- 6 husband's name?
- 7 A. John Day.
- 8 Q. Is he from Sumter?
- 9 A. Yes.
- 10 Q. Is he still alive?
- 11 A. Yes.
- 12 Q. And what does he do for a living?
- 13 A. As far as I know, he's retired. I don't know what he
- 14 does.
- 15 Q. Do you know where he retired from by any chance?
- 16 A. No.
- 17 Q. Okay. And your other child's name?
- 18 A. Martineek Day.
- 19 Q. In Sumter County or somewhere ---
- 20 A. He's in Florida.
- 21 Q. He is in Florida?
- 22 A. Yes.
- 23 Q. Okay. What kind of work does he do?
- 24 A. He drives transit for Amazon.
- 25 Q. All right. Is -- is he married?

- 1 A. Yes.
- 2 Q. To somebody from Sumter or somewhere else?
- 3 A. Someone from Delaware.
- 4 Q. Okay. All right. And so, just to kind of cut to the
- 5 chase on this, what I'm looking for is any -- any last
- 6 names of kin that you think you have in Sumter County
- 7 by blood or marriage. Even the ones you don't want to
- 8 claim; okay?
- 9 A. Okay.
- 10 Q. Somebody that you feel like you are related to -- you
- 11 know, my last name is McElveen -- I'm related to
- 12 Watson's and Brogdon's and Curtises and a lot of
- 13 different families, distantly. So, anybody that you
- 14 think you are kin to in Sumter County, what would the
- 15 last names be?
- 16 A. Wells, Hastie. Wells and Hastie and Williams.
- 17 Q. Okay. No other last names that you would claim as kin
- 18 in Sumter County?
- 19 A. Smiling.
- 20 Q. Smiling's?
- 21 A. Yeah.
- 22 Q. Okay. S-M-I-L-I-N-G?
- 23 A. Yes. My aunt is married to a Smiling.
- 24 Q. I got it.
- 25 A. My mama's sister.

- 1 Q. Okay. Anybody else?
- 2 A. No one else.
- 3 Q. Okay. All right. And tell me. how far did you go in
- 4 school?
- 5 A. Twelfth grade.
- 6 Q. Twelfth grade; did you graduate?
- 7 A. Yes, I graduated.
- 8 Q. Where did you graduate from?
- 9 A. Furman High School, 1975.
- 10 Q. Got it. And did you go there all four years of high
- 11 school?
- 12 A. Yes.
- 13 Q. All right. How about middle school?
- 14 A. Manchester.
- 15 Q. How about -- how about elementary school?
- 16 A. Manchester Elementary.
- 17 Q. Okay. So, you -- you grew up in Pinewood, around
- 18 Pinewood?
- 19 A. I grew up on Tindal Road, but the children that lived
- 20 on Tindal Road had to go to Manchester.
- 21 Q. I got you. Okay. And did you have any sort of
- 22 education or training past high school?
- 23 A. I have a Home Health Aide Certificate that I used to
- 24 do that kind of work for a little while. I got that
- 25 from Sumter Tech and Shaw Tech.

- 1 Q. So, back before Central Carolina ---
- 2 A. Yes.
- 3 Q. -- and Sumter Tech, you got that?
- 4 A. Yes.
- 5 Q. Okay. Any other Certificates or training or any
- 6 Degrees that you have gotten?
- 7 A. That's it.
- 8 Q. That's it. Okay. Have you ever served in the
- 9 military?
- 10 A. No.
- 11 Q. All right. And can you tell me about your -- your job
- 12 history? So, going back to the first job you had in
- 13 Sumter County, what would that have been?
- 14 A. The first job I ever had in Sumter County was a baby-
- 15 sitting job. I worked for the Williams, Drakeford's
- 16 and Irene Williams.
- 17 Q. Okay. And how long did you do that for?
- 18 A. For about two years.
- 19 Q. All right. Where else have you worked in Sumter
- 20 County?
- 21 A. I worked at Georgia Pacific.
- 22 Q. How long did you work there for?
- 23 A. About a year.
- 24 Q. What kind of work did you do there?
- 25 A. Feeding dry -- wet veneer into a big dryer to make bed

- 1 rails.
- 2 Q. Okay. What did you do after that?
- 3 A. Then after that I worked to Burger -- to Young's
- 4 Market.
- 5 Q. Which one? More than one of them?
- 6 A. Well, I used to mostly work to the one on Oswego
- 7 Highway, but I worked at all of them before back then.
- 8 Q. Okay. How long did you work for Young's?
- 9 A. Probably about eight years.
- 10 Q. All right. Anywhere else?
- 11 A. Burger King.
- 12 Q. How long did you work there for?
- 13 A. Eight years.
- 14 Q. Which one?
- 15 A. On Broad.
- 16 Q. All right.
- 17 A. Sumter Pigeon Plant.
- 18 Q. How long did you work there for?
- 19 A. About a year.
- 20 Q. Did you work on Broad Street or somewhere else for
- 21 them?
- 22 A. Broad.
- 23 Q. Broad Street. What were you doing there?
- 24 A. At the Pigeon Plant?
- 25 Q. Yes, ma'am.

- 1 A. Plucking feathers off the chickens.
- 2 Q. Plucking them off the pigeons; right?
- 3 A. Yeah.
- 4 Q. Yeah.
- 5 A. Chickens, birds.
- 6 Q. Yeah. All right. Where else; anywhere else?
- 7 A. Cooper Tools.
- 8 Q. How long were you there for?
- 9 A. Nine years.
- 10 Q. All right. What were you doing there?
- 11 A. When I first went there, I was a packer, and when I
- 12 left there, I was a machine op -- machine operator.
- 13 Q. Okay Anywhere else you have worked in Sumter County
- 14 besides the places you have mentioned already?
- 15 A. I think that's it.
- 16 Q. You mentioned earlier that you had a Certificate or
- 17 you are Home Health trained?
- 18 A. I did a little work of that, but I didn't like it and
- 19 I didn't continue with it.
- 20 Q. Okay. Where would you have done that?
- 21 A. Right here in Sumter.
- 22 Q. Is there a certain place you did that, though?
- 23 A. I went to different homes.
- 24 Q. Yeah, I'm asking ---
- 25 A. But I can't remember the name of the company; it's

1 been so many years ago.

2 Q. But you were working through a company?

3 A. Yes.

4 Q. And getting assigned to different homes ---

5 A. Yes.

6 Q. -- is what you were doing?

7 A. Right.

8 Q. Was it more than one company?

9 A. Just one company, but I can't remember the name of it.

10 Q. How long did you do that for?

11 A. For about six months.

12 Q. Okay. Were there any other places that you can recall

13 working in Sumter besides the places you have already

14 told me?

15 A. No.

16 Q. All right. And you told me a bunch of different jobs.

17 What was the reason for leaving most of those jobs?

18 A. Most of them?

19 Q. Yes, ma'am.

20 A. I was young and I just wanted to change jobs, and if

21 the other job was paying me more, just changing jobs

22 trying to make a living.

23 Q. Okay. And so, ---

24 A. And make more money.

25 Q. Sure. Have you ever been fired from a job -- I don't

1 mean being laid off because -- because they closed or
2 whatever else -- has anyone ever terminated you from
3 a job?

4 A. No.

5 Q. Never?

6 A. Never.

7 Q. Okay. Are you a member of any -- any church? Are you
8 a member of any church in Sumter County?

9 A. New Bethel Baptist out 15 South, but I hadn't been
10 there lately. But I am a member there.

11 Q. Okay. How long have you been a member there for?

12 A. All my life.

13 Q. All your life?

14 A. Yes.

15 Q. And is there any other churches in Sumter County that
16 you have attended regularly but may not have joined?

17 A. No.

18 Q. Did you have a home church growing up?

19 A. Yes, New Bethel Missionary Baptist.

20 Q. That was it?

21 A. Yes.

22 Q. Okay. I got you. To your knowledge, does your --
23 does your husband have a home church where he grew up?
24 I don't think I asked him that question. Did he ever
25 have a home church when he ---

1 A. He told me about a church in Mayesville, but I never
2 been to any of his churches before.

3 Q. Okay.

4 A. But he used to go to church when he was younger.

5 Q. Okay. Are you a member of, like, any sort of civic
6 organization, clubs, I mean, I will give you some
7 examples. Like, a sorority or ---

8 A. No.

9 Q. -- Civitan, Kiwanis, nothing like that?

10 A. No.

11 Q. Okay. What sort of things do you enjoy doing when you
12 have spare time; how do you spend your days?

13 A. I like to play bingo. I like to read. I like to walk
14 when I have time to try to get my health better. I
15 like to go fishing.

16 Q. Okay. Those things you still enjoy doing now?

17 A. That's what I like to do, but I don't get to fish like
18 I want to.

19 Q. Sure. I don't think anybody does.

20 A. Yeah.

21 Q. When is the last time you had a job or you worked?

22 A. The last time I had a job was when I worked at the
23 Sportsman in 1995.

24 Q. Okay. So, you haven't -- you haven't had -- you
25 haven't worked since 1995?

- 1 A. No.
- 2 Q. Okay. Are you on Disability or anything like that?
- 3 A. I'm getting retirement right now.
- 4 Q. You get retirement?
- 5 A. Yes.
- 6 Q. Where do you get retirement from?
- 7 A. Social Security.
- 8 Q. Okay. You are drawing Social Security already?
- 9 A. Yes.
- 10 Q. Okay. That is your only income as of right now?
- 11 A. My only income.
- 12 Q. Okay. How about your husband's income, does he have
- 13 any income?
- 14 A. He's getting the same thing, but we're not getting our
- 15 full benefits because we didn't have enough work
- 16 credits what we -- what retirement gives. We're not
- 17 getting the maximum amount.
- 18 Q. Yes, ma'am.
- 19 A. Because you have to have -- I guess you probably know
- 20 -- you have to have at least forty (40) work credits
- 21 within a ten year period to get your full amount of
- 22 Social Security.
- 23 Q. So, when did you start drawing Social Security?
- 24 A. Last -- I turned sixty-two (62) this year; so, I
- 25 started getting it this year.

1 Q. Yes, ma'am. How about your husband, do you remember
2 when he started getting it?

3 A. He turned sixty-two (62) two years ago I think it was;
4 so, he's got it about two years.

5 Q. Okay. Does he get Disability also or did he get
6 Disability at some point in time?

7 A. We -- we didn't -- it's -- I don't call that
8 Disability. We got SSI.

9 Q. Okay. Okay.

10 A. That's for people that don't have enough work credits
11 in. We didn't -- we didn't qualify for regular
12 Disability.

13 Q. Okay. And you said that you do suffer from PTSD and
14 anxiety?

15 A. Yes.

16 Q. Were you diagnosed with both those conditions around
17 the same time?

18 A. Yes.

19 Q. When would that have been?

20 A. Probably about eight years ago.

21 Q. About eight years ago?

22 A. Yes.

23 Q. Okay. And you mentioned you have a South Carolina
24 Driver's License and you gave me the number earlier.
25 Have you had any -- a License in any other state

1 besides South Carolina?

2 A. Just South Carolina.

3 Q. Okay. Has your License ever been suspended for any
4 reason?

5 A. Never.

6 Q. Never been suspended?

7 A. Never.

8 Q. Have you ever had a CDL or Commercial Driver's
9 License?

10 A. No.

11 Q. Okay. When do you think -- how long have you had a
12 Driver's License for?

13 A. About forty-four (44) years.

14 Q. Forty-four (44) years?

15 A. Yeah.

16 Q. All right. And again, please don't take offense to
17 these questions. He asked my client. I asked your
18 husband. I'm going -- I ask everybody these
19 questions.

20 A. Okay.

21 Q. Have you ever been convicted of any crime?

22 A. No.

23 Q. Okay. Have you ever been arrested for any crime?

24 A. I've been arrested one time. I was upset and I was
25 walking at night from the house to go to the store and

1 I didn't have my identification on me and the Sumter
2 County Police stopped me on the Old Manning Road, and
3 I was walking and they took me to jail because I
4 didn't have any identification to show them who I was.

5 Q. Who was that?

6 A. Some policeman. I can't remember his name, but the
7 next morning, they let me go.

8 Q. How long ago was that?

9 A. That was probably in 2004.

10 Q. Did they ever charge you with anything?

11 A. They didn't have nothing to charge me for.

12 Q. So, they let you go -- let you go the next day?

13 A. The next day. And he said he arrested me because I
14 didn't have any identification on me, and I was
15 walking at night.

16 Q. Did you do anything about it as far as did you
17 retaliate in Civil Court or anything?

18 A. No, I didn't; I didn't retaliate or do anything about
19 it.

20 Q. So, they let you go and that was it?

21 A. That was it.

22 Q. Okay. Do you remember the officer's name?

23 A. I can't remember, but I think he's the one that was in
24 an accident somewhere and got killed, the big heavy
25 one.

1 Q. Okay.

2 A. A few years ago.

3 Q. Mr. Nesbitt?

4 A. I believe so.

5 Q. Okay. That is the only time you have ever been
6 arrested, though, for anything?

7 A. Other than me and my husband have gotten in arguments
8 and when they come to see what's going on after I
9 called them and I'm the one that's doing all the
10 talking, and they've arrested me for something like
11 that one time.

12 Q. Do you remember when that would have been?

13 A. Probably in 2005.

14 Q. Okay. Did that happen more than one time?

15 A. One time.

16 Q. Just one time?

17 A. Uh-huh (affirmative response).

18 Q. Okay.

19 A. Yes.

20 Q. So, just -- just the '04 and '05 incidents that you
21 were telling me about is ---

22 A. Yes.

23 Q. -- the only time you have ever been arrested?

24 A. Yes.

25 Q. Okay. And over the last ten years, let's just say

1 since 2009, what does your driving record look like?

2 A. I have a good driver's record -- driving record.

3 Q. Do you have all your points on your License?

4 A. All my points for years.

5 Q. Okay. And so, I want to talk to you a little bit

6 about prior to -- we are here today because of an

7 incident that happened on July 24th, 2016; would you

8 agree with that date?

9 A. Yes.

10 Q. Do you remember that day?

11 A. Yes.

12 Q. Okay. And do you remember the events that led up to

13 that?

14 A. Yes.

15 Q. Do you have any reason to argue that it was on that

16 date that this happened?

17 A. Did we have any reason to argue?

18 Q. Any reason to argue that the incident we are here for

19 today happened ---

20 A. No. No.

21 Q. -- on July 24th, 2016?

22 A. No.

23 Q. Okay. And prior to that, had you ever been in a motor

24 vehicle collision yourself?

25 A. Yes, I've been in a motor vehicle collision.

1 Q. Okay. And how many have you been in?

2 A. My son and I -- I picked -- I gave my son a ride home
3 from Pilgrim's Pride; he was working and we were at
4 the light at Broad and Church Street and a lady and
5 her husband ran the light and hit us and total lossed
6 car, but we weren't really hurt.

7 Q. Okay.

8 A. And other than that, that's the only accident that I
9 remember.

10 Q. Prior to July 24th, 2016?

11 A. Yes. But we wasn't driving that car. I was driving
12 my older son's car.

13 Q. Okay. Had you ever -- have you ever brought a lawsuit
14 against anybody?

15 A. No.

16 Q. You never have brought one?

17 A. No.

18 Q. Has anyone ever brought one against you besides this
19 one?

20 A. No.

21 Q. Okay. How about since July 24th, 2016?

22 A. No.

23 Q. Have you been in any more wrecks since then?

24 A. No.

25 Q. Has anybody ever brought a lawsuit against you besides

1 this one?

2 A. No.

3 Q. Okay. And how about as far as what you know with your
4 husband, do you remember when his License was
5 suspended?

6 A. You mean the first time or ---

7 Q. What do you know about your husband's License
8 suspensions?

9 A. The first one probably was around about 2004 or '05,
10 and the second one when he had this last wreck, it was
11 already suspended.

12 Q. Okay. So, you say "this last wreck," the one we are
13 here for today?

14 A. Yes.

15 Q. July 24th, 2016?

16 A. Yes.

17 Q. How long had it been suspended when that occurred?
18 How long had his License been suspended when that
19 occurred?

20 A. Probably since about 2004, something like that.

21 Q. So, well over ten years?

22 A. Yes.

23 Q. Okay. Are you pretty confident about that?

24 A. I'm not sure about the time. I just know he had --
25 had the suspension. I don't have the correct date.

1 Q. Okay. And ---

2 A. I can't remember the correct date.

3 Q. In your household, since you have been married to
4 Richard Prothro, have you ever had more than one car
5 in the household?

6 A. We had just that one car and then my son gave me and
7 my younger son his used car together, but we didn't
8 drive it long because that's when we had the accident
9 on Broad and Church.

10 Q. Okay.

11 A. And I didn't have -- I didn't even have it for six
12 months and it got total loss, but other than that,
13 we just had one car in the house.

14 Q. Okay. And so, the -- the collision that happened that
15 we are here for today, you agree it was the Ford
16 Contour that was involved?

17 A. Yes.

18 Q. How long had you had -- how long had you all had that
19 car prior to July 24th, 2016?

20 A. Probably since 2013.

21 Q. 2013?

22 A. Yes.

23 Q. Okay. You bought that car?

24 A. Yes.

25 Q. Was it in your name?

- 1 A. Yes.
- 2 Q. Okay. And that was around 2013?
- 3 A. Yes.
- 4 Q. So, when you got that Ford Contour, would Mr.
- 5 Prothro's License have been suspended at that time?
- 6 A. Yes.
- 7 Q. Did he ever get it reinstated since then?
- 8 A. No.
- 9 Q. Okay. Do you have any independent knowledge of why
- 10 Mr. Prothro's License was suspended?
- 11 A. For DUI.
- 12 Q. Okay. And how many DUIs did -- are you aware of?
- 13 A. Only two.
- 14 Q. Two. Do you know when those would have been?
- 15 A. The first one he ever got I don't think we were
- 16 together. But the last one, like I said, was probably
- 17 in about 2004 or '05.
- 18 Q. Okay. So, when -- when the second one happened, you
- 19 knew about it?
- 20 A. The second DUI?
- 21 Q. Yes, ma'am.
- 22 A. That's the one that I know about.
- 23 Q. When did you find out about the first, that he had the
- 24 first one?
- 25 A. The first one I don't think I knew him.

- 1 Q. But did you find out about it at some point in time?
- 2 A. He told me about it.
- 3 Q. When would that have been?
- 4 A. Probably -- probably something like 2000, I guess.
- 5 Q. Around 2000, he told you about it?
- 6 A. Yes.
- 7 Q. Okay. So, you knew about the first one before the
- 8 second one even happened?
- 9 A. Yes.
- 10 Q. Okay. And is there anything else that you are aware
- 11 of about his driving record prior to July 24th, 2016?
- 12 A. No.
- 13 Q. You knew about the DUIs ---
- 14 A. Right.
- 15 Q. -- and his License was suspended?
- 16 A. Right.
- 17 Q. Okay. And so, ---
- 18 A. But I heard you ask him about one in -- a second one
- 19 in 2015. He -- he didn't have but one in 2015. I
- 20 don't know where that came from.
- 21 Q. That was Driving Under Suspension; correct?
- 22 A. Yeah, but he only had -- he didn't have two in 2015.
- 23 Q. And perhaps I should have asked him this question,
- 24 too. There's two Richard Prothro's; right?
- 25 A. Yes, his son is ---

1 Q. His son?

2 A. Yes. And they -- neither one of them use Senior or
3 Junior, and that's how that probably got mixed up
4 because he did some time for his son before for child
5 support.

6 Q. Are you aware of his son ever getting a Driving Under
7 Suspension charge?

8 A. I don't know anything about his driving record.

9 Q. You wouldn't know one way or the other?

10 A. No, I know him, but I don't know anything about his
11 driving record.

12 Q. Okay. I understand. And so, during -- during the
13 time that you had that 1999 Ford Contour; correct?

14 A. Yes.

15 Q. All right. You said you think you got it in 2013?

16 A. Uh-huh (affirmative response).

17 Q. That is a yes?

18 A. Yes.

19 Q. So -- so, at least three years prior to this
20 collision?

21 A. Yes.

22 Q. How many times do you think Mr. Prothro had driven
23 that vehicle prior to July 24th, 2016?

24 A. I can't tell you the exact amount of time, but he
25 never did just drive it like I did. Just every now

1 and then, he would take the keys and want to drive it.

2 And I can't really say how many times.

3 Q. Okay.

4 A. But he wasn't driving it every day.

5 Q. Were you aware that he was driving the vehicle?

6 A. When he was driving it, I was aware of it.

7 Q. Okay. Were you -- were you home most of the time when
8 he was doing that?

9 A. Not all the time.

10 Q. How would you find out about it?

11 A. Because if the car's gone, I know that he have it.

12 Q. Okay. How would you know he had it and not somebody
13 else?

14 A. Because no one else come in our house and get a key
15 but him.

16 Q. Okay. So, and just -- just to be clear on this. So,
17 had you ever reported that vehicle stolen at any point
18 in time?

19 A. No, I haven't.

20 Q. Okay. You have never reported that 1999 Ford Contour
21 as being stolen?

22 A. No, I haven't.

23 Q. Okay. And did you ever give -- did you ever give Mr.
24 Prothro permission to drive the vehicle?

25 A. No.

- 1 Q. You never gave Mr. Prothro ---
- 2 A. No.
- 3 Q. -- permission?
- 4 A. No.
- 5 Q. Did he ever ask you permission to drive it?
- 6 A. Well, if he asked me and I tell him no, he would still
- 7 drive it.
- 8 Q. Okay. What did you do to prevent him from driving the
- 9 vehicle?
- 10 A. Try to take the keys from him.
- 11 Q. Okay. How many sets of keys were there?
- 12 A. There were two sets of keys because, like he told you,
- 13 we needed another key so if the other key got locked
- 14 up in the car -- we just had one -- two ignition keys.
- 15 Q. Who was -- who -- who kept up with the keys?
- 16 A. I did.
- 17 Q. You did. Where did you usually keep the keys?
- 18 A. Usually on the dresser or on the table, just not
- 19 hidden some place in the house.
- 20 Q. Okay. Was that -- during what period of time was that
- 21 the case? Were you -- were you in the habit of
- 22 keeping the keys on the counter you said in the
- 23 bedroom?
- 24 A. Yes.
- 25 Q. How -- how long had you been keeping them there for?

1 A. Forever.

2 Q. How long is forever?

3 A. Well, most of the time. Sometimes I have them in my
4 pocketbook.

5 Q. Okay. So, from the time that Mr. Prothro got his
6 License suspended until July 24th, 2016, whether it
7 was the Contour or another vehicle, how many times did
8 -- did he drive your vehicle?

9 A. Probably about twice or two or three times a month.

10 Q. So, you wouldn't argue with what he said earlier?

11 A. No.

12 Q. Okay. And how many times did -- did you know about it
13 during that period of time?

14 A. I knew about it most of the time.

15 Q. Most of the time?

16 A. Yes.

17 Q. Okay. And so, did you ever take steps to -- to hide
18 the keys or to keep the keys from him?

19 A. No.

20 Q. You never did?

21 A. No.

22 Q. So, going back to July 24th, 2016, do you agree that
23 he was driving the vehicle that day?

24 A. Yes.

25 Q. All right. And when is -- when is the previous time

1 he drove the vehicle? When is the last time he drove
2 it prior to that date that you knew about?

3 A. About two weeks.

4 Q. All right. And I'm going to go back, the same
5 question I asked him earlier.

6 A. Okay.

7 Q. Two weeks earlier, then how about prior to that?

8 A. Probably a week.

9 Q. Okay. How about before that?

10 A. Probably maybe three weeks.

11 Q. And again, your testimony is, is that the period of
12 time he was suspended until the time of this wreck,
13 whether it was the Contour or another household
14 vehicle, he drove two or three times a month?

15 A. Yes.

16 Q. And you knew about it most of the time?

17 A. Yes.

18 Q. Okay. And so, where were you the morning of July
19 24th, 2016?

20 A. I was at home that morning and I tried to get him not
21 to drive, but he did anyway.

22 Q. Okay. And so, I want to ask some specific questions
23 about that. He has already talked to me about what
24 happened. What time did you get up that morning?

25 A. Probably about -- about the same time he did, about

1 6:30.

2 Q. Had there been any sort of argument the prior night or
3 anything like that?

4 A. Yeah, we had words.

5 Q. Do you recall what that was about?

6 A. I was telling him that he was being mean toward my --
7 my son, which is his stepson, stuff that had happened
8 in the past; we were just bringing up old
9 conversations, and he got angry about it and just told
10 me -- no, he wasn't mean, he was just trying to make
11 my son behave.

12 Q. Okay.

13 A. But my son is grown now. My son wasn't there at that
14 time and that wasn't happening right then. We were
15 just talking about past incidents in our relationship.

16 Q. And that was the previous -- previous night, July
17 23rd?

18 A. And then -- yes, and then it started back over -- over
19 the same stuff that we had been arguing about before.

20 Q. Okay. And so, that evening of the 23rd, the night
21 before this happened, were you all at home that night?

22 A. Yes.

23 Q. Just you and him or anybody else?

24 A. Just he and I.

25 Q. Okay. And the day before, which is July 23rd, what

1 were -- what were -- where had you all been that day?

2 A. Mostly at home and maybe went to the store or

3 something and came back. We were home.

4 Q. Okay.

5 A. We were home most of the time.

6 Q. Did you -- did you see or know of Mr. Prothro drinking

7 any alcohol that night?

8 A. Yes.

9 Q. The 23rd?

10 A. Yes.

11 Q. What did you know about?

12 A. What did you say?

13 Q. What did you know about that?

14 A. What did I know about what?

15 Q. As far as what he had to drink the night before.

16 A. He -- like -- he's telling you the truth about the

17 pint. He had dranked out of the pint that night, and

18 then the next morning, what he had left, he drank the

19 rest of it.

20 Q. You knew about that, too?

21 A. Yes.

22 Q. Do you know what time that was?

23 A. Probably about 9:00, 10:00 in the morning.

24 Q. 9:00 or 10:00 in the morning?

25 A. When he left.

1 Q. Okay. What time do you think he drank the pint that
2 morning?

3 A. Probably about anywhere around the time we got up
4 6:30, 7:30.

5 Q. Okay. And you were awake then, too; so you know about
6 it?

7 A. Yes.

8 Q. Okay. And you said you tried to stop him that
9 morning?

10 A. Yes.

11 Q. Tell me where did he go -- where did he go to get the
12 keys that morning?

13 A. Out of the house.

14 Q. Where in the house?

15 A. On the dresser.

16 Q. The same place they always were?

17 A. Yes.

18 Q. Okay. And ---

19 A. Then I followed him outside and tried to get them back
20 from him.

21 Q. Okay.

22 A. But he didn't give them to me and he just took off.

23 Q. Why were you trying to stop him?

24 A. Because I didn't want him to drive the car drinking,
25 and I know that I didn't have insurance on there for

1 him to drive it.

2 Q. You knew that?

3 A. Yes.

4 Q. Did he know you didn't have insurance on there for him

5 to drive?

6 A. Yes, he did.

7 Q. How long had he known that for?

8 A. He's always known that.

9 Q. Okay. But he continued to drive it?

10 A. Yes.

11 Q. And you continued to -- well, you realized that he

12 continued to drive it?

13 A. Yes.

14 Q. Okay. And did you do anything else to stop him

15 besides just tell him to stop that morning?

16 A. No.

17 Q. You didn't report the vehicle stolen, didn't call any

18 of your friends?

19 A. No.

20 Q. Did you call anybody about ---

21 A. I didn't call anybody.

22 Q. Okay. Did anybody see you, maybe the neighbors in the

23 duplex or anybody else, did anybody see you trying to

24 stop him from driving that morning?

25 A. No.

1 Q. Okay. And so, what is the next thing that you found
2 out about that day?

3 A. The next thing that I found out, the cops came and
4 knocked on the door and they asked me if I was Gloria
5 Oliver, and I told them "No, I'm Sharon Prothro." So,
6 he gave me my registration card and everything that he
7 got out the car before they -- after they arrested
8 Richard, and he asked me did I know her and I told him
9 that I knew of her and he asked me did I know where
10 she was, and I said "No." And he said, "Well, she
11 just committed a crime." And I said, "What?" He
12 said, "Well, she was in the car in a wreck with
13 Richard and she ran away from the scene of the
14 accident."

15 Q. So, someone told you that Gloria Oliver committed a
16 crime?

17 A. The police that -- the policeman that came and brought
18 me my stuff out the car.

19 Q. Can you recall who told you that?

20 A. I don't know his name. But Richard has his papers at
21 the house, his tickets; his name is on the tickets.

22 Q. Okay. Was he -- did you see his vehicle he was
23 driving in?

24 A. He was driving a -- a city cop car.

25 Q. A city cop car?

1 A. Yeah.

2 Q. White car with blue and maybe black on it or something

3 ---

4 A. Black and gold stripe.

5 Q. Black and gold?

6 A. Yes.

7 Q. Was he a Sheriff's deputy or was he a ---

8 A. Sheriff deputy.

9 Q. Okay. You can't recall his name?

10 A. No, I can't recall his name.

11 Q. Can you describe how he looked or anything like that?

12 A. Small built, tall, slim.

13 Q. Do you remember if he was white, African-American ---

14 A. White.

15 Q. White?

16 A. Yes.

17 Q. Do you care to guess his age?

18 A. I don't -- I can't guess his age. I know he's much

19 younger than I am.

20 Q. Do you know if he had any kind of facial hair or

21 anything like that?

22 A. I can't remember that.

23 Q. Okay. So, he told you that someone had committed a

24 crime?

25 A. Yes, that she ran away from the scene of an accident.

1 And he said, "No," -- he was looking me all over and
2 he said, "no, that's not you because she was bigger
3 than you and she had a rag on her head," and that was
4 how that went.

5 Q. Did he say anything about your husband committing a
6 crime that day or not?

7 A. Yeah, he told me that Richard was locked up.

8 Q. Okay.

9 A. And what happened -- that he was in the wreck at the
10 Neighborhood Wal-Mart and what all happened. And he
11 asked me if I loved Richard, and I told him "Yeah."
12 He said, "Well, the next time, you make sure you keep
13 the keys away from him." And he gave me my stuff and
14 went on.

15 Q. Okay. And is that the first that you heard about any
16 of this happening?

17 A. Yes.

18 Q. So, nobody called you from the scene or anything like
19 that?

20 A. No.

21 Q. Did you have a cell phone at the time?

22 A. Yes, but I don't know anybody that was at that scene
23 that know me and have my number.

24 Q. So, the first you heard about this was when the
25 officer came to your house?

1 A. Yes.

2 Q. Do you remember about what time that would have been?

3 A. It was that Sunday afternoon, I guess probably about
4 1:30, 2:00 o'clock.

5 Q. Okay. And what did you do; did you go down to the
6 jail or anything like that?

7 A. Not that day. I went down the next morning and I went
8 to the little Court in front of the judge and picked
9 Richard up. After they let him go, I went and picked
10 Richard up. But I caught a ride with a family member
11 and picked him up.

12 Q. Who was that family member you rode with; do you
13 remember?

14 A. I don't -- it was a family member's boyfriend. She
15 was working and the guy picked me up, but I don't know
16 his real name. We just call him by nickname.

17 Q. What -- what is his nickname?

18 A. Fats.

19 Q. Fats?

20 A. Yes.

21 Q. Okay. All right. And did -- what -- did you ever see
22 that Ford Contour?

23 A. What?

24 Q. Did you ever see that Ford Contour after the collision
25 happened?

1 A. Yes, I saw it because it was impounded, and after a
2 couple days, Richard and I went and got it out of
3 impound and -- and I drove it for a while after --
4 after it got back home.

5 Q. Did anybody from the insurance company ever look --
6 come and look at the vehicle?

7 A. I went to the insurance company and they saw me
8 driving it. I went there and I reported the accident.

9 Q. Okay. To your knowledge, did anybody from the
10 insurance company or anybody else take photographs of
11 the vehicle?

12 A. I don't remember.

13 Q. You don't remember any pictures ever being taken of
14 that Ford Contour?

15 A. No.

16 Q. Did you take any pictures of it?

17 A. I did, but I don't have them any more. They were in
18 an old cell phone that I don't have any more.

19 Q. Okay. So they are gone now?

20 A. Yes.

21 Q. Did anybody else take pictures of it, to your
22 knowledge?

23 A. No.

24 Q. Okay. And do you have any understanding or has
25 anybody told you what all was damaged in this incident

1 besides your vehicle?

2 A. Yes, I was told what was damaged. But there weren't --
3 there weren't any major damages.

4 Q. What were you told?

5 A. I was told that there were -- there were just a couple
6 dents on whatever vehicles that he hit.

7 Q. A couple dents?

8 A. Yes.

9 Q. Did they tell you there was any damage to anything
10 that was in the Wal-Mart parking lot?

11 A. Yes, the little small palm trees was pushed over. I
12 been there since that happened the same week and I saw
13 that with my -- for myself.

14 Q. So, you not only got pictures of the Ford Contour --
15 I mean, you not only got pictures of it, you drove it
16 also for a period of time?

17 A. I drove it for a good period of time.

18 Q. Where was the damage to that vehicle after this
19 incident?

20 A. It was on the -- the rear bumper was pulled off and it
21 might have had a small dent on the side, but it was
22 drivable.

23 Q. Okay. Did -- did anybody from the insurance company
24 ever compensate you for that vehicle?

25 A. No.

1 Q. Did you ever get any kind of compensation at all for
2 it?

3 A. No.

4 Q. To your knowledge, was anybody -- was there any
5 compensation to the owners of the other vehicles who
6 were damaged?

7 A. I don't know.

8 Q. You don't know?

9 A. No.

10 Q. You don't if your insurance paid on those claims or
11 not?

12 A. No, I don't.

13 Q. To your knowledge, was any of the property damage at
14 Wal-Mart -- to your knowledge, did anybody at Wal-Mart
15 ever receive any compensation for property damage?

16 A. I don't know.

17 Q. You don't know?

18 A. No.

19 Q. You are not saying they did or they didn't, you just
20 don't know?

21 A. I just don't know.

22 Q. Okay. And so, did you have a chance to talk to Mr.
23 Prothro about this?

24 A. About what?

25 Q. About what happened on July 24th, 2016.

1 A. Yes, he talked to me about it.

2 Q. What did he tell -- what did he tell you?

3 A. He told me just what happened. He told me that he
4 gave them a ride, and -- and when he got ready to back
5 out, that some kind of way, his foot was mashed -- he
6 was mashing the gas and the -- and the brakes at the
7 same time.

8 Q. Okay. And ---

9 A. And he was backing up, and that's how it happened.

10 Q. All right. And so, Mr. Cummings, I think the first
11 individual that he picked up, do you know Mr. Cummings
12 at all?

13 A. I've met him before, but I'm not an associate of his.
14 I know that he and Richard know each other real good,
15 but I'm not an associate of his.

16 Q. If he walked right in here right now and shook your
17 hand, would you know who you were talking to?

18 A. Yeah, I would speak to him because I know he's a
19 friend of Richard's.

20 Q. Okay. Do you think -- do you think Mr. Cummings knows
21 about the situation with the insurance not covering
22 ---

23 A. I don't know what he knows.

24 Q. You don't know that?

25 A. No, I don't see him at all.

1 Q. Okay. How about my client, Gloria Oliver, do you know

2 ---

3 A. I don't have anything to do with her either. I don't
4 know what she knows.

5 Q. Do you know her at all?

6 A. I know of her. I know that Richard knew them before
7 he knew me. I don't know anything personal about her.

8 Q. Okay. If you saw her today, would you recognize her?

9 A. Yes.

10 Q. Okay. Have you talked to her at all since July 24th,
11 2016?

12 A. Only one time she saw me at a gas station on Broad
13 Street and she asked me what was the name of my
14 insurance company a long time after they had the wreck
15 and I told her, and that's it. I told her who my
16 insurance company was and she said "Thank you", and
17 she went on her way and -- and I went on mine.

18 Q. Okay. And do you -- do you have any knowledge that --
19 that Ms. Oliver would have known that the vehicle that
20 she was riding in on July 24th, 2016 was not insured?

21 A. She have no way to know that because I don't know her
22 like that, and we don't socialize.

23 Q. Okay. So, ---

24 A. She don't know -- she see me, she don't know me, and
25 I see her, I don't know her. We don't -- we've never

1 been around each other before.

2 Q. So, you -- you have never told her that the ---

3 A. I've never told her anything other than when she came
4 up to my car. Richard was in there. And she asked me
5 who did I have insurance with, and I told her.

6 Q. Has -- has any -- has anybody else told you that they
7 have let Ms. Oliver know that Mr. Prothro may not be
8 an insured driver on that vehicle?

9 A. No.

10 Q. You are not aware of that?

11 A. No.

12 Q. Who all would know that?

13 A. No one is supposed to know that but me and Richard.

14 Q. Okay.

15 A. And he would -- I don't think he went and told anybody
16 anything about any insurance, and I know I don't.

17 Q. And the folks in the insurance company office would
18 know about it, too; right?

19 A. Yes.

20 Q. Okay. And so, did you ever have to give a statement
21 abut this to the insurance company?

22 A. I don't think so.

23 Q. And what I mean by that is, did anybody from an
24 insurance company ever ask you to write anything out
25 about what you knew?

1 A. No.

2 Q. Okay. Did anybody from the insurance call you and
3 interview you about this?

4 A. They have called me and asked me about the accident
5 and asked me if I was aware of it and everything, and
6 I have answered their questions.

7 Q. Okay. All right. And so, let me ask you this. Do
8 you -- do you -- do you think on July 24th, 2016 --
9 well, I'll scratch that question. Do you think -- do
10 you think folks that don't have valid insurance should
11 be driving?

12 A. No.

13 Q. Okay. Do you think folks who are under the influence
14 of alcohol should be driving?

15 A. No.

16 Q. Do you think -- did Mr. -- do you -- do you believe,
17 based on your observations, that Mr. Prothro was under
18 the influence of alcohol when he left your house on
19 July 24th, 2016?

20 A. Yes.

21 Q. Do you think you should have done more to stop him
22 that morning?

23 A. Yes.

24 Q. Okay. To your knowledge, has Mr. Prothro driven since
25 July 24th, 2016?

1 A. No.

2 Q. He never has driven since ---

3 A. No.

4 Q. Okay. Do you think you would know about it?

5 A. I -- yes, I would know about it.

6 Q. All right. And you -- you said that you got -- you

7 drove the Ford Contour for a little period of time

8 after this happened?

9 A. Yes, I drove it for a little while after it happened.

10 Q. How long do you think you drove it for?

11 A. Probably about July -- probably until October.

12 Q. Until October of that year?

13 A. Yes.

14 Q. Were you able to get a new vehicle after that?

15 A. That's when I got another vehicle.

16 Q. Okay. Are you still driving that ---

17 A. Yes, I'm still the same vehicle I got.

18 Q. Okay. And to your knowledge, Mr. Prothro hasn't tried

19 -- hasn't tried to drive that vehicle?

20 A. No, he hasn't because he don't want to get me in any

21 trouble and he don't need to be in any.

22 Q. Okay. Do you keep the keys in a different place now

23 than you used to?

24 A. He don't bother -- he don't try to bother the keys.

25 I have them in my pocketbook, and he will not drive.

1 Q. Okay. So, you don't keep them on that -- on that same
2 counter any more?

3 A. I don't hide them, but he does not -- he don't mess
4 with the keys.

5 Q. Okay. All right. And so, I want to show you this
6 same Exhibit that we showed to everybody else today.

7 A. Okay.

8 Q. I can mark this again. It is Plaintiff's Exhibit
9 Number One to this deposition.

10 A. Okay.

11 COPY OF NAMED DRIVER EXCLUSION MARKED
12 PLAINTIFF'S EXHIBIT NUMBER ONE.

13 Q. All right. So, I will hand you that, Ms. Prothro. Do
14 you recall signing that?

15 A. Yes, I do.

16 Q. Is -- is that your signature on there?

17 A. That's my signature, and I remember signing it.

18 Q. Okay. What date was that?

19 A. April the 2nd of 2009.

20 Q. Would you disagree with that date?

21 A. No, I won't.

22 Q. Okay. And have you signed another one of those since
23 April -- April 2nd, 2009?

24 A. I probably have because I've had insurance with them
25 for twelve (12) years.

1 Q. Okay. And when you signed -- when you signed this
2 form on April 2nd, 2009, was that the Ford Contour you
3 had then or was that a different car; do you recall?

4 A. Probably -- that was the Ford Contour.

5 Q. Okay. And so, do you think you have specifically
6 signed any more of these since 2009 or you think you
7 may have?

8 A. I can't remember.

9 Q. And for identification purposes, this is a Named
10 Driver Exclusion Election. Who was sitting there when
11 you signed this?

12 A. Richard and I and the insurance agent.

13 Q. Do you know who that would have been?

14 A. Probably -- as good as I know their names, I can't
15 remember them now.

16 Q. So, this was over ten years ago; right?

17 A. Yeah. I -- I know her name, but I can't remember it.

18 Q. Where is her office?

19 A. On Wesmark Boulevard.

20 Q. Okay. So, it is somebody that works for the
21 Progressive Agency over there?

22 A. Yeah, it's right next door to -- to the Enterprise
23 place.

24 Q. Okay. Do you still maintain insurance with
25 Progressive ---

- 1 A. Yes.
- 2 Q. -- to this day?
- 3 A. Yes.
- 4 Q. Under this same policy?
- 5 A. Yes.
- 6 Q. All right. And so, when you signed this, you think
- 7 Mr. Prothro would have been sitting there and a woman
- 8 from the insurance agency?
- 9 A. Yes.
- 10 Q. Did she explain this to you?
- 11 A. She explained it to me.
- 12 Q. What did she tell you you were signing?
- 13 A. I know that Richard was an excluded driver because he
- 14 don't have a -- he has a suspended License. And she
- 15 did explain that to me.
- 16 Q. Was that the first time that was explained to you or
- 17 was it ever done before April 2nd, 2009?
- 18 A. She's always explained it to me.
- 19 Q. Okay. And to him, too?
- 20 A. He don't always be with me, but he understand that
- 21 he's excluded.
- 22 Q. Okay. And why -- why was that -- why was he -- why
- 23 was he excluded from this policy?
- 24 A. Because of a suspended Driver's License and the DUI
- 25 charges.

1 Q. Okay. Since this was signed on April the 2nd, 2009 in
2 front of you and Mr. or in front of Mr. Prothro, how
3 many times did he drive between April 2nd, 2009 and
4 July 24th, 2016?

5 A. I can guess, but I could never tell you how many times
6 he did that.

7 Q. What would your guess be?

8 A. Probably about three or four times a month.

9 Q. Okay. The same numbers that you heard earlier?

10 A. Yeah. Well, I know that's the truth, yeah.

11 Q. You don't disagree with any of that?

12 A. I don't -- I don't disagree with it.

13 Q. And of that number between April 2nd, 2009 and July
14 24th, 2016, how many of those times did you know about
15 it?

16 A. I knew about it most of -- most of the time.

17 Q. Okay. All right. And are you -- are you aware -- are
18 you aware of a claim that has been filed against
19 Progressive on behalf of my client, Ms. Oliver?

20 A. Yes.

21 Q. You are?

22 A. I've been given notices about it ever since it
23 happened.

24 Q. By your insurance company?

25 A. No, by -- from you.

1 Q. Okay. From my office?

2 A. From your office.

3 Q. Okay. And so, again, I don't want you to tell me
4 anything that you and your attorney talk about; okay?

5 A. I won't.

6 Q. That's very important that you don't.

7 A. I won't.

8 Q. But as far as your insurance company, has anyone ever
9 told you that Ms. -- Ms. Oliver has offered to resolve
10 this case inside of your coverage?

11 A. No, no one have ever told me that.

12 Q. Okay. And has anyone ever told you that -- do you
13 understand the difference between liability coverage
14 and uninsured motorist coverage?

15 A. Yes.

16 Q. You do understand the difference?

17 A. Yes.

18 Q. What is your understanding is the difference between
19 those two?

20 A. Liability is just to fix another person's car, but
21 then if I'm in -- if I'm at fault and I do something
22 wrong, they don't cover it.

23 Q. Okay.

24 A. For my -- for my vehicle.

25 Q. Let me ask you this question. Are you -- have you

1 been advised by your insurance company -- I'm not
2 asking about your attorney; okay -- have you -- have
3 you been advised by your insurance company that prior
4 to filing a lawsuit, that Ms. Oliver offered to settle
5 within your policy limits ---

6 A. No.

7 Q. -- from your liability coverage?

8 A. No.

9 Q. And they rejected it?

10 A. No, no one told me that.

11 Q. No one told you that. Has anyone ever told you that
12 Ms. Oliver also offered to settle within -- within the
13 limits of your insurance coverage on your uninsured
14 motorist coverage?

15 A. No. No one told me that.

16 Q. Okay. All right.

17 MR. McELVEEN: And I will mark this
18 as Plaintiff's Exhibit Number Two. I'm
19 going to -- wait one second.

20 MR. CRUDUP: What are you looking for?

21 MR. McELVEEN: Yeah, it's a letter from
22 Progressive. Actually, I can give you a copy
23 of it if you want a copy of it.

24 MR. CRUDUP: No, that's okay.

25 MR. McELVEEN: I've got two copies if you

1 want it.

2 MS. CAIELLO: That's fine.

3 MR. MCELVEEN: Mark that as Plaintiff's
4 Exhibit Number Two.

5 COPY OF LETTER FROM DANIELLE GAMACHE

6 MARKED PLAINTIFF'S EXHIBIT NUMBER TWO.

7 Q. Ms. Prothro, this is a letter from an adjuster at
8 Progressive named Danielle Gamache I believe that
9 says, "I was unable to find valid coverage for this
10 incident and we won't be able to pay your claim."
11 Have you ever seen this letter before; has anybody
12 ever showed you that letter before?

13 A. I can't remember.

14 Q. Did -- did you know that within about two months of
15 this -- this incident that happened on July 24th, 2016
16 -- did you know that Progressive had denied my
17 client's liability coverage?

18 A. No, I didn't know that.

19 Q. No one told you that?

20 A. No.

21 Q. Okay. That's Number Two.

22 MR. MCELVEEN: Mark this as Plaintiff's
23 Exhibit Number Three.

24 COPY OF LETTER FROM BRYAN LAW FIRM TO
25 DANIELLE GAMACHE DATED 1-24-17 MARKED

1 PLAINIFF'S EXHIBIT NUMBER THREE.

2 Q. Ms. Prothro, this is Plaintiff's Exhibit Number Three.
3 It has been marked for identification purposes. It is
4 a letter sent to the same adjuster, Ms. Gamache, I
5 believe with Progressive Claims. And this letter
6 again acknowledges Progressive's position to deny the
7 claim. I will just ask you to look at this letter and
8 ask you if you have ever seen this.

9 MR. CRUDUP: You're saying if she has
10 ever seen it?

11 MR. MCELVEEN: If she has ever seen the
12 letter.

13 Q. Have you ever seen this letter?

14 A. No.

15 Q. Has anybody ever told you about this letter before?

16 A. No.

17 Q. Okay. And you testified earlier that you -- you never
18 reported your -- you never reported that Ford Contour
19 as stolen?

20 A. No.

21 Q. Never ever?

22 A. Never.

23 Q. Okay. And did -- did anyone ever tell you from
24 Progressive that we had -- we had requested a letter
25 from Progressive confirming their denial of the claim

1 as well as grounds on which Progressive denies the
2 claim for the liability insurance?

3 A. No.

4 Q. They never told you that either?

5 A. No.

6 Q. Nobody at Progressive ever told you that?

7 A. No.

8 Q. Okay. All right. The next one I will hand you is --
9 this -- all right.

10 MR. McELVEEN: This is Plaintiff's
11 Exhibit Number Four, I believe.

12 COPY OF LETTER FROM DANIELLE GAMACHE TO
13 BRYAN LAW FIRM MARKED PLAINTIFF'S EXHIBIT
14 NUMBER FOUR.

15 MR. McELVEEN: Number Four. Thank you
16 ma'am.

17 Q. I'm going to hand you this. This is marked
18 Plaintiff's Exhibit Number Four. I think you will see
19 that it is a February 6th, 2017 letter from
20 Progressive. Take a look at that. Have you ever seen
21 that or did anyone ever tell you about that letter?

22 A. Yes, I kind of remember this.

23 Q. Okay. And that letter, I think, says that -- you do
24 remember this letter?

25 A. Uh-huh (affirmative response).

1 Q. Someone showed this to you?

2 A. I think I got one in the mail. No one showed --
3 showed it to me. I think I was mailed something like
4 this.

5 Q. You got a copy of that?

6 A. I don't know where it is.

7 Q. Okay. You can read along with me for a second.

8 A. Okay.

9 Q. It says, "When our insured, Sharon Prothro, purchased
10 her policy on April 2nd, 2009, she decided to exclude
11 Richard Prothro from the policy." Would you agree
12 with that?

13 A. Yes.

14 Q. Was that your decision or was that the insurance
15 company's decision?

16 A. Mines.

17 Q. It was your decision. Why did you make that decision?

18 A. Well, I had to make that decision because the
19 insurance company would automatically exclude him
20 because he don't have a Driver's -- he's -- he's under
21 suspension and have the DUI charges.

22 Q. Okay. All right. All right. So, following that
23 letter we marked as Number Four, this is the last one
24 I think I'm going to ask you about.

25 A. Okay.

1 Q. Yes, it is.

2 MR. McELVEEN: I will mark this as
3 Plaintiff's Exhibit Number Five, and this
4 should be the last one.

5 COPY OF LETTER DATED 1-8-18 TO
6 DANIELLE GAMACHE FROM BRYAN LAW FIRM
7 MARKED PLAINTIFF'S EXHIBIT NUMBER FIVE.

8 Q. This is the last one I've got to show to you, I
9 believe.

10 A. Okay.

11 Q. Ms. Prothro, this is Plaintiff's Exhibit Number Five.
12 This is a letter from my office dated January 8th,
13 2018. Have you ever seen that letter or has anyone
14 ever told you about that letter?

15 A. Not exactly like this, no.

16 Q. It is a demand for uninsured -- uninsured motorist
17 benefits ---

18 A. No.

19 Q. -- other than liability. You have never seen that?

20 A. No.

21 Q. No one ever shared the contents of this letter with
22 you?

23 A. I don't remember that letter.

24 Q. From the insurance company?

25 A. No.

1 Q. Okay. All right. And so, again, you -- you are
2 unaware of any offers that have been made on behalf of
3 Ms. Oliver ---

4 A. Yes, I'm -- I'm unaware of that.

5 Q. -- in exchange for the coverage in your policy?

6 A. I don't know anything about that.

7 Q. Okay. And do you -- do you understand that
8 Progressive Insurance Company, do you understand that
9 we are here right now because my client brought --
10 brought a claim -- brought a lawsuit against you and
11 against your husband? You understand that; correct?

12 A. Yes, I understand it, but I don't.

13 Q. Okay. Do -- do you -- are you aware of the fact that
14 Progressive Insurance Company also brought a separate
15 lawsuit against you and your husband and my client,
16 Ms. Oliver?

17 A. No.

18 Q. You are not aware of that?

19 A. No.

20 Q. Do you know what that is about or anything like that?

21 A. No.

22 Q. Okay. Do you understand on the first lawsuit that we
23 are here for right now that my client has brought
24 against you and against Mr. Prothro, do you understand
25 that if my client gets a verdict and Progressive's

1 coverage is not available, then that verdict will be
2 a judgment against you and/or your husband?

3 A. Uh-huh (affirmative response). But can I ask you one
4 thing?

5 Q. It depends.

6 A. I mean, we don't have anything. Where is it coming
7 from?

8 Q. That is something you need to talk to your attorney
9 about. But -- but you understand in the event that
10 there is no insurance coverage here, if my client got
11 a verdict, ---

12 A. Right.

13 Q. -- that could be -- that could end up being a judgment
14 against you and/or your husband?

15 A. Uh-huh (affirmative response). Well, we don't have
16 any -- any assets; so, I don't know where it would
17 come from. That's what I'm trying to tell you.

18 Q. And again, I do not want to know what you and your --
19 what you and your lawyer have talked about.

20 A. I haven't talked to an lawyer about this.

21 Q. Well, I don't need to know that.

22 A. Okay.

23 Q. I want to know, has anybody from Progressive Insurance
24 ---

25 A. No.

1 Q. -- walked you through that?

2 A. No.

3 Q. They have not?

4 A. No.

5 Q. Okay. Now, based on your understanding of what you
6 know about this collision that happened on July 24th,
7 2016, do you have any opinions about what caused it?

8 A. What caused it?

9 Q. Yes, ma'am.

10 A. Richard caused it. He -- I mean, what he did cause
11 it; I didn't have anything to do with it.

12 Q. Okay.

13 A. And I'm not blaming him; you know, you have the
14 evidence, the police got the records, they know what
15 he did.

16 Q. Do you think you have any responsibility in this
17 whatsoever?

18 A. Well, I have responsibility I should have do something
19 about him driving, but I'm not -- I don't -- if I have
20 -- if I am responsible for money, I don't have any.

21 Q. Okay. And do you -- do you believe that my client,
22 Gloria Oliver, based on what you know, was responsible
23 for causing this collision?

24 A. Well, Richard was driving the car, and I didn't give
25 her a ride. He gave her a ride.

1 Q. Okay.

2 A. And I feel like, by him giving her a ride, she should
3 have stayed there until the police come so everything
4 could have been accounted for.

5 Q. Okay. But that is after the collision; right?

6 A. Yes.

7 Q. Do you -- do you think she did anything to cause or
8 contribute to this collision itself?

9 A. I don't think anything about her because I wasn't
10 there.

11 Q. I understand. To your knowledge, did she ever get
12 arrested or did she ever face any crime as a ---

13 A. I don't know anything about her personal life. I
14 don't know.

15 Q. And you don't -- do you have any reason to believe
16 that she knew that -- that Mr. Prothro was an excluded
17 driver on that 1999 Ford Contour?

18 A. I don't think that she would have been worrying about
19 that and as my knowledge, there's no way for her to
20 know that, and I don't think she asked him that
21 either.

22 Q. Okay. Do you -- you mentioned you have friends that
23 you play cards with and stuff like that?

24 A. Who -- I have friends that I play cards with?

25 Q. Didn't you mention ---

1 A. Yeah, me and Richard play two man Spades in the house.
2 I don't go out. I don't play cards with -- with
3 anybody in the public. I do what I do at home.

4 Q. Okay. And the reason -- what I'm getting at is, do
5 you ever have friends that you ride with anywhere?

6 A. No.

7 Q. You don't?

8 A. No.

9 Q. Have you ever had friends that you rode with?

10 A. Yeah, when I was a teenager and I'm sixty-two (62)
11 years old now.

12 Q. Okay. Do you -- do you think if you rode with
13 somebody you should have responsibility to ask them if
14 the car is insured before you get in?

15 A. I probably should, but I -- I have never done that
16 before.

17 Q. Do you think most folks do?

18 A. I don't think nobody do that.

19 Q. Okay.

20 MR. McELVEEN: I appreciate you answering
21 all my questions. I don't think I have anything
22 else further, but your attorney may.

23 MS. PROTHRO: You're welcome.

24 MR. McELVEEN: Thank you, ma'am.

25 MR. CRUDUP: I do not.

1 MR. McELVEEN: Nothing?

2 MR. CRUDUP: I have nothing.

3 (THERE BEING NO FURTHER QUESTIONS, THE DEPOSITION WAS
4 CONCLUDED AT 7:12 P.M.).

5

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
 COUNTY OF SUMTER) CIVIL ACTION NO.: 2019-CP-43-00105

Progressive Northern Insurance Company,)

Plaintiff,)

vs.)

Gloria Oliver, Richard Prothro and Sharon)
 Prothro,)

Defendants.)

Deposition of GLORIA D. OLIVER, taken by Doris
 Tompkins Brown, Certified Verbatim Reporter and Notary
 Public in and for the State of South Carolina, commencing
 at 4:22 P.M. on December 2, 2019 at the offices of The
 Bryan Law Firm, LLP, 17 East Calhoun Street, Sumter, South
 Carolina.

APPEARANCES

ON BEHALF OF THE PLAINTIFF: Sarah E. Caiello
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ON BEHALF OF THE DEFENDANT: J. Thomas McElveen, III
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(Also present but not
participating)

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* * * * *

EXHIBIT INDEX

Named Driver Exclusion Election Pl. Ex. 1
(Signed in color)

* * * * *

(COURT REPORTER'S NOTE: --- INDICATES INTERRUPTION,
INCOMPLETE PHRASE, TRAILING OFF, INCOMPLETE SENTENCE)

**PROGRESSIVE NORTHERN INSURANCE COMPANY VS.
GLORIA OLIVER, RICHARD PROTHRO AND SHARON PROTHRO**

1 The deposition of Gloria D. Oliver is being taken
2 pursuant to Notice and in accordance with the South
3 Carolina Rules of Civil Procedure and Amendments as adopted
4 by the Supreme Court which shall control the taking of said
5 deposition and its use thereof.

6 Counsel, with the specific consent of the witness,
7 waives the reading and signing of the deposition prior to
8 the time it is filed with the Court.

9 (Gloria D. Oliver, having been duly sworn, testifies as
10 follows:)

11 EXAMINATION BY MS. CAIELLO:

12 Q. Ms. Oliver, my name is Sarah Caiello. We met a few
13 minutes ago before all this started. And I represent
14 Progressive, an insurance company, in the -- the other
15 case you have got going on. It is the one about the
16 insurance coverage, trying to figure out if there's
17 insurance coverage for the accident; does that make
18 sense?

19 A. Yes, ma'am.

20 Q. Okay. Do you remember all the -- the rules of the
21 game for the deposition that -- that they went over
22 earlier about ---

23 A. Yes.

24 Q. -- verbal questions -- verbal answers, that sort of
25 thing?

1 MR. McELVEEN: And to protect you, I
2 think we should simply put on the record
3 that -- that she literally heard those
4 instructions within the last hour and a
5 half, she recalls those instructions and
6 we're fine.

7 MS. CAIELLO: Absolutely. Great.
8 Thank you. That's helpful.

9 Q. So, you just did the deposition in the tort case in
10 this?

11 A. Yes.

12 Q. Right. About the accident?

13 A. Yes.

14 Q. Great. So, you heard all those -- those rules; we
15 play by those same rules now.

16 A. Yeah. Yes.

17 Q. Good deal. Thank you. And I believe that I have a
18 copy here -- you had just finished talking with the
19 other attorneys during that tort deposition about this
20 page. We can mark it as Plaintiff's One in this one
21 as well.

22 COPY OF NAMED DRIVER EXCLUSION ELECTION
23 MARKED PLAINTIFF'S EXHIBIT NUMBER ONE.

24 Q. I think the only difference is that one has colored
25 ink for the signature; is that right?

- 1 A. Yes.
- 2 Q. Between what you just saw?
- 3 A. Yes.
- 4 Q. Okay. And you said that you had never seen that
- 5 before; is that correct?
- 6 A. No, I never seen that paper before.
- 7 Q. Okay. And that's -- just so that we are all on the
- 8 same page, that is a document that says Named Driver
- 9 Exclusion Election at the top?
- 10 A. Uh-huh (affirmative response).
- 11 Q. That is a yes?
- 12 A. Yes.
- 13 Q. Okay. Thank you. And it has Ms. Sharon Prothro's
- 14 signature at the bottom; is that what you see?
- 15 A. Yes.
- 16 MR. McELVEEN: Object to the form.
- 17 Q. Okay. But you see a signature that says Sharon
- 18 Prothro?
- 19 A. Yes, ma'am.
- 20 Q. Okay. Good deal. Had you ever been given any
- 21 documents called a Request to Admit?
- 22 A. No.
- 23 Q. Have you ever heard of what that might be?
- 24 A. No.
- 25 Q. Okay. So, have you ever been asked in this lawsuit to

1 look at this document before today and say that --
2 yes, this is a signature of Sharon Prothro?

3 A. No, I've never seen that.

4 Q. Okay. Had you ever been asked whether that document
5 says Mr. Richard Prothro is excluded from the
6 Progressive policy?

7 A. No, I never seen that paper.

8 Q. Okay. So, you had never been asked any questions
9 about that document beforehand?

10 A. No.

11 Q. Okay. Are you aware that Progressive has asked any
12 questions of you or attorney about this document?

13 MR. McELVEEN: Object to the form.

14 Q. You can answer.

15 A. No, I'm not aware.

16 Q. Okay. And do you see the date by Ms. Sharon Prothro's
17 signature on the bottom of that page?

18 A. Yes.

19 Q. What is the date?

20 A. The 4th, the 2nd, '09.

21 Q. April the 2nd, 2009?

22 A. Yes.

23 Q. And that was before this accident occurred; is that
24 correct?

25 A. That's April the -- my accident happened July the

1 24th.

2 Q. Of what year?

3 A. Of last year, Two Thousand and --I think 2018.

4 Q. 2018. So, this document, if it was signed on April

5 the 2nd, ---

6 A. No, that's not -- let's see. That happened July the --

7 July the 24th -- this is the '19; so how long ago --

8 I think it was like the '18.

9 Q. Your accident was in 2018; is that correct?

10 A. What's that -- let's see. '18. This '19. '17 --

11 between the '17 or '18. I'm not really sure ---

12 Q. Of the year?

13 A. -- of the year.

14 Q. Okay.

15 A. But I definitely know the date was July the 24th, and

16 it happened that morning.

17 Q. Okay. But it was in either in 2017 or 2018; ---

18 A. Yeah.

19 Q. -- that the accident happened?

20 A. Yes. Apparently. Uh-huh (affirmative response).

21 Q. But this document is dated in the year of 2009; is

22 that correct?

23 A. What, this right here?

24 Q. Right. Plaintiff's Exhibit One that you are looking

25 at right here where it has that signature at the

1 bottom and the date that we were just talking about.

2 A. This accident didn't happen -- didn't happen in April
3 -- April in the -- April the 2nd.

4 Q. Right. This document has a date that is before your
5 accident occurred; is that correct?

6 A. Yes, it got the 4th and the 2nd and 2009.

7 Q. And your accident was in 2018; correct?

8 A. I pretty sure.

9 Q. Okay.

10 MS. CAIELLO: I think that is all

11 I have.

12 MR. McELVEEN: Just one follow-up.

13 EXAMINATION BY MR. McELVEEN:

14 Q. I will just ask this question. You mentioned several
15 times, Ms. Oliver, that the wreck happened on July
16 24th. Could it have been 2016?

17 A. Yes, it's -- it happened the 24th between Two Thousand
18 and -- this -- '17, '16, '17, '18, '19. So, it had to
19 been in '16 because it's over two years before my
20 business got handled; so, I think it was like the '16.
21 2016.

22 Q. Because -- because in a prior deposition that you
23 recently gave ---

24 A. Yeah.

25 Q. -- within in the last hour, I think the question was

1 asked to you ---

2 A. Yeah. I'm sorry. I'm sorry. My mistake.

3 Q. I just want to make sure we have got the date
4 straight.

5 A. Yeah. Yeah, that's right.

6 MS. CAIELLO: I think that was my error.

7 I think I read my date wrong.

8 A. Yeah.

9 MS. CAIELLO: So ---

10 A. I'm sorry. I apologize. It was the '16 because it's
11 -- like right now, it's '19. Yes.

12 MS. CAIELLO: Okay.

13 A. '17, '18. Uh-huh (affirmative response).

14 Q. And the question I will ask you, and without divulging
15 anything that you and I talked about that is protected
16 by attorney/client privilege, I will ask you again,
17 prior -- prior to the date of this wreck which we now
18 agree on was July 24th, 2016, ---

19 A. Exactly.

20 Q. -- had anybody ever told you that there might not be
21 insurance on the vehicle that was involved in the
22 wreck that day?

23 A. No.

24 Q. Okay. And you testified earlier in a -- another
25 deposition that Richard Prothro was the driver of that

1 vehicle?

2 A. Yes.

3 Q. You testified earlier that you believed that he was
4 the one that owned the vehicle?

5 A. Yes.

6 Q. Okay. And as of July 24th, 2016, had anybody ever
7 told you that there was not insurance on that vehicle?

8 A. No.

9 Q. Okay. And prior to July 24th, 2016, did anybody ever
10 tell you that there might not be insurance on that
11 vehicle?

12 A. No.

13 Q. Okay.

14 A. No.

15 Q. And up and to and prior to July 24th, 2016, had -- did
16 you have any reason to believe that the vehicle that
17 -- that you were riding in with Richard Prothro as the
18 driver did not have valid insurance?

19 A. No. No, I didn't know that.

20 Q. Okay.

21 A. No, I didn't know that.

22 MR. MCELVEEN: That's all I've got.

23 EXAMINATION BY MS. CAIELLO:

24 Q. Okay. Real quick here. Just so I -- just real quick.

25 Do you have a Driver's License?

- 1 A. No.
- 2 Q. Do you have a car?
- 3 A. No.
- 4 Q. How do you usually get places?
- 5 A. My family takes me around.
- 6 Q. Okay. They have their own cars and Driver's Licenses?
- 7 A. Exactly.
- 8 Q. Okay.
- 9 A. Yes.
- 10 Q. Which family members usually drive you?
- 11 A. Like different ones, cousins, ---
- 12 Q. Okay.
- 13 A. -- sisters, aunties.
- 14 Q. You have got a lot of family in the area?
- 15 A. Brothers. Yes.
- 16 Q. Okay. Do you usually ask drivers of cars if they have
- 17 insurance before you ride in those cars?
- 18 A. No, I don't ask that kind of question. No.
- 19 Q. Do you think it is common that people would do that?
- 20 MR. MCELVEEN: Object to the form.
- 21 Q. You can still answer.
- 22 A. No, because people don't really ask that -- those type
- 23 of questions, you know. No.
- 24 Q. Sure. So, did it occur to you to ask Mr. Richard
- 25 Prothro that day if he had insurance on the car?

1 A. No, that didn't even cross my mind. No.

2 Q. Would that have stopped you from getting in the car?

3 A. If I had ---

4 Q. That day?

5 A. -- if I had known if he told me that, pretty much, but
6 he didn't told me that.

7 Q. And you didn't think to ask that question?

8 A. No, I didn't think to ask him that. All I asked him
9 was to take me to Wal-Mart, and that was that.

10 Q. Okay.

11 MS. CAIELLO: I think that's it.

12 Thank you.

13 MR. MCELVEEN: That's it.

14 MR. CRUDUP: That is really it.

15 (THERE BEING NO FURTHER QUESTIONS, THE DEPOSITION WAS
16 CONCLUDED AT 4:35 P.M.).

17

1 STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER) CERTIFICATE

I, Doris Tompkins Brown, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, certify that I did have Gloria D. Oliver appear before me commencing at 4:22 P.M. on December 2, 2019 at the offices of the Bryan Law Firm of SC, LLP, 17 East Calhoun Street, Sumter, South Carolina; that the witness was duly sworn and cautioned to tell the truth; that the foregoing pages constitute a true and accurate transcript of the testimony given at that time and place.

I hereby certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 4th of January, 2020.

Doris Tompkins Brown, CVR
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission expires: 4-02-2025

Policy number: 55178995-0
SHARON PROTHRO
Page 5 of 12

Named Driver Exclusion Election

You have named the following persons as excluded drivers under this policy:

RICHARD PROTHRO

Date of Birth: May 6, 1955

No coverage is provided for any claim arising from an accident or loss involving a motorized vehicle being operated by an excluded person. This includes any claim for damages made against any named insured, resident relative, or any other person or organization that is vicariously liable for an accident or loss arising out of the operation of a motorized vehicle by the excluded driver.

This form must be signed by the named insured.

I understand and agree that this Named Driver Exclusion election shall apply to this policy and any renewal, reinstatement, substitute, amended, altered, modified or replacement policy with this company or any affiliated company, unless a named insured revokes this election.

I declare that either the driver's license of the excluded persons named in this Named Driver Exclusion election has been turned into the Department of Motor Vehicles, or that an appropriate policy of liability insurance or other security as may be authorized by law has been properly executed in the name of the person to be excluded.

Signature of named insured

Date

X *Sharon J. Prothro*

4-2-09

Form 9330 SC (04/07)

Claim # 165237341



Continued

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
 COUNTY OF SUMTER) CIVIL ACTION NO.: 2019-CP-43-00105

Progressive Northern Insurance Company,)

Plaintiff,)

vs.)

Gloria Oliver, Richard Prothro and Sharon)
 Prothro,)

Defendants.)

Deposition of SHARON PROTHRO, taken by Doris
 Tompkins Brown, Certified Verbatim Reporter and Notary
 Public in and for the State of South Carolina, commencing
 at 7:17 P.M. on December 2, 2019 at the offices of The
 Bryan Law Firm, LLP, 17 East Calhoun Street, Sumter, South
 Carolina.

APPEARANCES

ON BEHALF OF THE PLAINTIFF: Sarah E. Caiello
 Murphy and Grantland, P.A.
 Post Office Box 6648
 Columbia, South Carolina

ON BEHALF OF THE DEFENDANT:
 (Gloria Oliver) J. Thomas McElveen, III
 The Bryan Firm, LLP
 Post Office Box 2038
 Sumter, South Carolina

Doris Tompkins Brown

COPY

Certified Verbatim Reporter
 Post Office Box 853
 Sumter, South Carolina 29151
 (803) 400-7434

COPY



(Also present but not
participating):

Jeffrey M. Crudup
Clarkson Walsh & Coulter
Post Office Box 2219
Mount Pleasant, S. C.

* * * * *

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EXHIBIT INDEX

Named Driver Exclusion Election Pl. Ex. 1

* * * * *

(COURT REPORTER'S NOTE: --- INDICATES INTERRUPTION,
INCOMPLETE PHRASE, TRAILING OFF, INCOMPLETE SENTENCE)

**PROGRESSIVE NORTHERN INSURANCE COMPANY VS.
GLORIA OLIVER, RICHARD PROTHRO AND SHARON PROTHRO**

1 The deposition of Sharon Prothro is being taken
2 pursuant to Notice and in accordance with the South
3 Carolina Rules of Civil Procedure and Amendments as adopted
4 by the Supreme Court which shall control the taking of said
5 deposition and its use thereof.

6 Counsel, with the specific consent of the witness,
7 waives the reading and signing of the deposition prior to
8 the time it is filed with the Court.

9 (Sharon Prothro, having been duly sworn, testifies as
10 follows:)

11 EXAMINATION BY MS. CAIELLO:

12 Q. Ms. Prothro, ---

13 A. Yes.

14 Q. -- thank you for your patience today. I know it has
15 been a long afternoon for you.

16 A. Yes.

17 Q. My name is Sarah Caiello. I am another attorney; I am
18 involved in the DJ action, Declaratory Judgment
19 action. It is basically where the insurance company
20 is trying to establish whether there is or is not
21 coverage under your car insurance policy in the
22 accident we are here about today. Do you understand
23 that?

24 A. Yes.

25 Q. Okay.

**PROGRESSIVE NORTHERN INSURANCE COMPANY VS.
GLORIA OLIVER, RICHARD PROTHRO AND SHARON PROTHRO**

ELECTRONICALLY FILED - 2020 Sep 11 1:38 PM - SUMTER - COMMON PLEAS - CASE#2019CP4300105

1 MS. CAIELLO: And I'm just going to
2 ask again if we're okay to stipulate that
3 she was in a tort deposition earlier today,
4 heard all the rules ---

5 MR. McELVEEN: Yeah, please.

6 Q. Okay. So ---

7 MR. McELVEEN: I can say it for the
8 record, too. I mean, we -- from the
9 Defendant's side of this case, at least my
10 client's side, we stipulate that Ms. Oliver
11 was advised of the deposition earlier,
12 seemed to understand them, and we have no
13 issues going forward without re-explaining
14 all of that. Does that work?

15 MS. CAIELLO: Works for me.

16 MR. McELVEEN: Okay.

17 Q. So, just do you remember the rules that we went played
18 by earlier?

19 A. Yes.

20 Q. Verbal answers. You are doing great with that.

21 A. Yes.

22 Q. Okay. We are going to do our best to not talk over
23 each other, but I'm going to do my best to go quickly.

24 I know that you have been here for a while today.

25 Okay?

1 A. Okay.

2 Q. Okay. And I just have some basic questions. Just
3 following up on some things that you had said in the
4 earlier deposition, I want to make sure I understand
5 them all. I believe you said that you are currently
6 seeing a psychiatrist or a psychologist; is that
7 correct?

8 A. Yes.

9 Q. Who is that?

10 A. Dr. Davis.

11 Q. And where does Dr. Davis practice?

12 A. Santee-Wateree.

13 Q. Okay.

14 A. Mental Health.

15 Q. Okay. And what are you seeing him for?

16 A. For anxiety and PTSD.

17 Q. Okay. And are you on any medications for those
18 conditions?

19 A. Yes.

20 Q. Which ones?

21 A. Fluoxetine and -- and -- I'm forgetting. Hold on.
22 Prazosin.

23 Q. Okay. And do those medications -- would they affect
24 you and your ability to give truthful testimony today?

25 A. No.

- 1 Q. Okay. Do you take those every day?
- 2 A. Yes.
- 3 Q. Okay. Do you take other medications?
- 4 A. Yes.
- 5 Q. Which ones were those?
- 6 A. I take Amlodipine and Quinapril for blood pressure.
- 7 I take Meloxicam for arthritis. I take Metformin for
- 8 Type II diabetes.
- 9 Q. Okay. And I think I will just jump right in and ask
- 10 you -- start asking you a little bit about the policy
- 11 ---
- 12 A. Okay.
- 13 Q. -- that you have with Progressive.
- 14 A. Okay.
- 15 Q. Do you remember applying for that policy?
- 16 A. Yes.
- 17 Q. When was that?
- 18 A. 2009.
- 19 Q. Okay. Which -- which insurance company did you have
- 20 before you had a Progressive policy?
- 21 A. I hadn't had insurance in years before that. I can't
- 22 remember my old insurance company.
- 23 Q. Okay. And why did you take out the Progressive
- 24 policy?
- 25 A. Because I had just got a car and I needed insurance,

1 and I picked -- chose Progressive.

2 Q. Why did you choose Progressive?

3 A. Because I liked the price that they offered me.

4 Q. That's a good reason to choose ---

5 A. And that's what I could afford.

6 Q. And that is a good reason to choose an insurance
7 policy.

8 MR. McELVEEN: Objection.

9 Q. I think we all like getting those low rates. So, you
10 don't remember who you had a previous policy with or
11 when it was?

12 A. No, that's been so many years ago, I wouldn't probably
13 give you the right name or the right date.

14 Q. Okay. Do you remember if anybody else was on that
15 policy with you?

16 A. No.

17 Q. Okay. Was this before you and Mr. Prothro got
18 married?

19 A. Yes.

20 Q. Okay. Had you ever had any other policy that listed
21 Mr. Prothro ---

22 A. No.

23 Q. -- before the Progressive policy?

24 A. No.

25 Q. Okay. You said you remember the day you applied for

1 this policy?

2 A. I remember about the time I applied for it, yes.

3 Q. Okay. Do you remember how you applied for that
4 policy?

5 A. I walked in.

6 Q. And you walked in where?

7 A. To Progressive on Wesmark Boulevard. Jim Robertson
8 Agency.

9 Q. And that is here in Sumter?

10 A. Yes.

11 Q. Okay. Do you remember who you worked with at that
12 agency, the name of the person?

13 A. I can't remember her name, no.

14 Q. But it was a woman?

15 A. Yes.

16 Q. Was it Leslie Todd?

17 A. Leslie.

18 Q. Leslie. Okay. Had you worked with Leslie before?

19 A. Well, most -- most of the years -- the years that I've
20 been insured there, I worked with Leslie and the other
21 girl that worked in there with her; I've forgot her
22 name.

23 Q. Okay. But you worked with Leslie on your policy. Do
24 you still work with her even today on your policy?

25 A. Both of them. It's three people in there, and

1 sometimes Leslie do it and sometimes one of the other
2 ladies do it.

3 Q. Okay. What do you remember about the day that you
4 went in to apply for the Progressive policy?

5 A. I remember that I had Richard as an excluded driver.

6 Q. Okay. How did that come about?

7 A. I told them about his driving record and -- and he
8 would have to be excluded with his driving record.
9 And he didn't have a License at the time; his License
10 was suspended.

11 Q. Okay. Was Mr. Prothro with you at that time?

12 A. One time, yes.

13 Q. Okay. I'm going to give you what is going to be
14 marked as Plaintiff's Exhibit One.

15 A. Okay.

16 COPY OF DRIVER EXCLUSION ELECTION FORM
17 MARKED PLAINTIFF'S EXHIBIT NUMBER ONE.

18 Q. And you may have already seen this document today, but
19 I'm going to ask you to look over it a minute and I'm
20 going to ask you a few questions when you are ready.

21 A. I'm ready because I've read it before.

22 Q. You have read it before?

23 A. Uh-huh (affirmative response).

24 Q. Okay. How many times have you read it before?

25 A. I don't know.

- 1 Q. Is more than once the case that ---
- 2 A. Yeah, I read it more than once.
- 3 Q. Okay. Do you remember the first time you saw this
- 4 document?
- 5 A. When I took the insurance out.
- 6 Q. Okay.
- 7 A. When I first took the insurance out.
- 8 Q. Okay. And just for the record, this Plaintiff's
- 9 Exhibit One is the Named Driver Exclusion Election
- 10 Form for the -- the policy application; is that
- 11 correct?
- 12 A. Right.
- 13 Q. Okay. So, you said that you first saw this when you
- 14 took the policy out, the Progressive policy?
- 15 A. Yes.
- 16 Q. And was that in 2009?
- 17 A. Yes.
- 18 Q. Okay. I see there is a signature down at the bottom.
- 19 Is that your signature?
- 20 A. That's my signature.
- 21 Q. Okay. What is the middle initial there?
- 22 A. Janice. That's my middle name.
- 23 Q. My aunt's name is Janice. Okay. So, that's Sharon J.
- 24 Prothro?
- 25 A. Yes.

- 1 Q. Is that correct?
- 2 A. Yes.
- 3 Q. And what is the date right there next to it?
- 4 A. 4-2-09.
- 5 Q. April 2nd of 2009?
- 6 A. Yes.
- 7 Q. And that is about when you took out the policy?
- 8 A. Yes.
- 9 Q. Okay. Do you remember signing this document?
- 10 A. Yes.
- 11 Q. Where were you when you signed it?
- 12 A. I was in one of the customer stations where they talk
- 13 to you to take out insurance.
- 14 Q. At the local agency with Leslie?
- 15 A. Yes.
- 16 Q. Okay. Here in Sumter?
- 17 A. Yes.
- 18 Q. And had Leslie explained what this document means to
- 19 you?
- 20 A. Yes, she explained it.
- 21 Q. How did she explain that to you?
- 22 A. She told me that since Richard didn't have a Driver's
- 23 License, he would have to be an excluded driver on my
- 24 policy.
- 25 Q. Okay. And do you see -- it's -- it is the next to

1 last paragraph here, ---

2 A. Uh-huh (affirmative response).

3 Q. -- I believe -- no, I'm sorry, it is the last
4 paragraph here where it says, "I declare that even the
5 Driver's License of the excluded persons named in
6 this Named Driver Exclusion Election has been turned
7 in to the Department of Motor Vehicles." Do you see
8 where it says that?

9 A. Yes.

10 Q. And you said that Mr. Prothro's Driver's License was
11 suspended at the time you took out the policy?

12 A. Yes.

13 Q. So, you believed that this was appropriate since he
14 did not have a License at that time?

15 A. Yes.

16 Q. Okay. And just to clarify here at the top, who is
17 listed as the excluded driver?

18 A. Richard.

19 Q. Your husband, Richard Prothro?

20 A. Yes.

21 Q. And what is the date of birth that is listed there?

22 A. 5-6-55.

23 Q. And is that Mr. Prothro's date of birth?

24 A. Yes.

25 Q. So, do you believe this document to refer to your

1 husband, Richard Prothro?

2 A. Yes.

3 Q. Okay. And do you see here just under where his name
4 is listed where it says that, "No coverage is provided
5 for any claim arising from an accident or a loss
6 involving a motorized vehicle being operated by an
7 excluded person"?

8 A. Yes.

9 Q. What do you believe that means?

10 A. It means that if -- if he's driving a car and he get
11 into an accident that the insurance company's not
12 liable to pay.

13 Q. Okay. And you saw where it says "a motorized
14 vehicle;" right?

15 A. Yes.

16 Q. In that same sentence?

17 A. Yes.

18 Q. It doesn't specify any particular car, does it?

19 A. No.

20 Q. And then we will go down to that next to the last
21 paragraph. I'm going to read this one, too; it's a
22 little bit long.

23 A. Okay.

24 Q. But just follow along and see if this is what it says.

25 A. Okay.

1 Q. "I understand and agree that this Named Driver
2 Exclusion Election shall apply to this policy and any
3 renewal, reinstatement, substitute, amended, altered,
4 modified or replacement policy with this company or
5 any affiliated company unless a named insured revokes
6 this election." Is that what ---

7 A. Yes.

8 Q. -- that paragraph says?

9 A. Yes.

10 Q. Okay. So, you understand then that this document
11 applies until you as the named insured change it?

12 A. Yes.

13 Q. Okay. Did you ever go in and change it?

14 A. No.

15 Q. To this day, is Mr. Richard Prothro excluded from your
16 auto insurance?

17 A. Yes, he's still an excluded driver on my -- on my
18 policy.

19 Q. Do you still have that same Progressive policy?

20 A. Yes.

21 Q. Through Leslie Todd at Jim Robertson Agency?

22 A. Yes.

23 Q. And you said that that was your -- your signature ---

24 A. Yes, that's my signature.

25 Q. Okay. Let me finish. So, that is your signature at

1 the bottom acknowledging ---

2 A. Yes.

3 Q. -- all these statements?

4 A. Yes.

5 Q. Okay. And you never put Richard on the policy ---

6 A. No.

7 Q. -- after -- let me finish one second.

8 A. I'm sorry.

9 Q. That's all right. I understand. It's been a long
10 day.

11 A. Uh-huh (affirmative response).

12 Q. After April 2nd, 2009, when you signed this document,
13 did you ever revoke this document and put Richard on
14 your policy?

15 A. No.

16 Q. And I believe earlier in your other deposition, you
17 said that you had moved into your new apartment where
18 you live now in May of this year, 2019?

19 A. May the 6th of this year.

20 Q. Okay. And where did you live before that?

21 A. 111 Crescent Avenue.

22 Q. Okay. Is that where you lived when you took out the
23 Progressive policy in 2009?

24 A. Yes.

25 Q. Okay. So, you were still living at 111 Crescent

1 Avenue in January of 2019?

2 A. Yes.

3 Q. Okay. I'm going to ask you a question here.

4 A. Okay.

5 Q. Do you remember anyone coming to your home on January
6 28th, 2019 around 6:30 at night?

7 A. Yes. That was you?

8 Q. No, no.

9 A. Okay.

10 Q. I'm just asking if anyone did. I have never been to
11 your house, for the record.

12 A. Oh, yes. Oh, yes, I remember. I'm sorry.

13 Q. Ms. Prothro, this is the first time I have ever met
14 you.

15 A. Okay.

16 Q. Just for the record.

17 A. Yes, I remember.

18 Q. Okay. Do you remember what happened that night?

19 A. The only thing I remember is, we went to the door and
20 -- and -- and got the papers from her.

21 Q. Okay. What papers was that?

22 A. The papers telling us about Ms. Oliver suing us.

23 Q. Okay. Do you know if that was about the -- the tort
24 law -- the car accident lawsuit or the lawsuit with
25 Progressive?

1 A. I don't know which one. I'm -- I can't remember which
2 one. I know it was one or the other.

3 Q. Sure. But somebody did come to your house at the end
4 of January to give ---

5 A. Yeah, somebody delivered papers to -- to -- to us
6 about three times before.

7 Q. About three times, okay.

8 A. Yes.

9 Q. Do you know what all those times were about?

10 A. About the same thing.

11 Q. Okay. But you don't know whether it was about the car
12 accident case or the case with the insurance policy,
13 do you?

14 A. I can't remember.

15 Q. Okay.

16 A. But I -- but I know I've got all the papers.

17 Q. Okay. And you got some in January, end of January
18 2019?

19 A. Yes.

20 Q. Okay.

21 A. Yes.

22 Q. So, you can't say for sure that you never received the
23 paperwork about the insurance policy lawsuit?

24 A. Right.

25 Q. Okay. You may have?

1 A. I may have. I got so many of them; I may have. I
2 don't want to tell you a lie because I know I was
3 getting all the papers that I got. I answered the
4 door and got them.

5 Q. Okay. I appreciate that.

6 A. Uh-huh (affirmative response).

7 Q. Truthful answers. That is what we all want here.

8 A. Right.

9 Q. Okay. And that was at your old address?

10 A. Yes.

11 Q. That Crescent Avenue?

12 A. That was all of them were delivered at the old
13 address.

14 Q. Okay.

15 MS. CAIELLO: I think that's all the
16 questions I have at this time, but he
17 might have a few more.

18 MR. McELVEEN: I've got a few.

19 MS. PROTHRO: Okay.

20 EXAMINATION BY MR. McELVEEN:

21 Q. Ms. Prothro, I want to make sure you understand this.

22 A. Okay.

23 Q. Do you know why you give -- why you are giving two
24 separate depositions today?

25 A. No. Well, yeah, she explained to me. She said one is

- 1 for the insurance company, and the other one is for
2 Ms. Oliver.
- 3 Q. Okay. And so, you understand that earlier I took your
4 deposition?
- 5 A. Yes.
- 6 Q. And you understand Mr. Crudup here is your attorney
7 for that action?
- 8 A. Yes.
- 9 Q. Right?
- 10 A. Yes.
- 11 Q. That -- that is the action that my client, Gloria
12 Oliver, brought against you and your husband, Richard
13 Prothro?
- 14 A. Yes.
- 15 Q. That is what we just did in the last deposition?
- 16 A. Yes.
- 17 Q. You understand this deposition is because -- I'm
18 basically in the same seat that you are; you realize
19 that this deposition is because Progressive Northern
20 Insurance Company sued my client, Gloria Oliver, as
21 well as you and your husband?
- 22 A. Yes, you told me that.
- 23 Q. You understand that now?
- 24 A. Yes.
- 25 Q. Okay. Did you understand that ---

**PROGRESSIVE NORTHERN INSURANCE COMPANY VS.
GLORIA OLIVER, RICHARD PROTHRO AND SHARON PROTHRO**

1 A. Before, no.

2 Q. Did you understand that on January 28th, 2019?

3 A. No.

4 Q. So, do you have -- do you presently -- have you
5 retained an attorney for the -- for the action that
6 Progressive has brought against you ---

7 A. No, I have ---

8 Q. -- and my client?

9 A. No, I haven't.

10 Q. Has your husband retained an attorney?

11 A. No.

12 Q. Okay. And so, for the -- for the other action we are
13 talking about where my -- where my client sued you and
14 your husband, you do have an attorney, right, Mr.
15 Crudup?

16 A. Yes.

17 Q. Did -- I don't want to talk about anything that you
18 talked to him about. Was he assigned to you or did
19 you hire him?

20 A. I didn't hire anybody.

21 Q. Okay. How -- was -- who assigned Mr. Crudup to you?

22 A. I don't know.

23 Q. You don't know?

24 A. No.

25 Q. You don't know how he came to represent you?

1 A. No.

2 Q. Okay. Has anybody given you or sent an attorney to
3 you for the action we are here for right now where
4 Progressive has sued you, my client and Mr. Prothro?

5 A. No.

6 Q. Nobody gave you an attorney for that?

7 A. No.

8 Q. And nobody from Progressive Insurance Company
9 explained to you what was going on with that?

10 A. No.

11 Q. Okay. And so, let me ask you this question. Are you
12 aware that Progressive Insurance Company not only sued
13 you, their insured, as well as your husband, but they
14 also filed a Motion to have you in default; are you
15 aware of that?

16 A. No.

17 Q. Has anyone ever -- ever made you aware of that?

18 A. No.

19 Q. Has anybody ever made you aware that as of -- bear
20 with me one second -- has anyone made you aware that
21 as of approximately April 25th of 2019, that an Order
22 was signed by a Judge stating that you and your
23 husband are in default as a result of not answering
24 the Complaint that Progressive filed against you, my
25 client and Richard Prothro?

1 A. No.

2 Q. No one has made you aware of that?

3 A. No.

4 Q. This is the first you have heard of this?

5 A. The first I can remember.

6 Q. Okay. So, you have -- so, you have a lawyer for the
7 action that my client has brought against you, but
8 you don't have one for the action -- for the cause of
9 action that Progressive ---

10 A. No.

11 Q. -- has brought you and your husband?

12 A. No.

13 Q. Okay. I just wanted to make sure I understand that.
14 And you mentioned some -- you answered some more
15 questions from Ms. Caiello just a second ago about the
16 Named Driver Exclusion Election that has already been
17 put into evidence in every deposition today?

18 A. Yes.

19 Q. Do you have any reason to believe that my client,
20 Gloria Oliver, knows about that?

21 A. Knows what?

22 Q. I will restate the question. Do you have any reason
23 to believe that my client, Gloria Oliver, would have
24 known about that exclusion on or before ---

25 A. No.

1 Q. -- July 24th, 2016?

2 A. No. No.

3 Q. That is a no?

4 A. No.

5 Q. Do you -- do you have any reason to believe that
6 anybody would have told my client, Gloria Oliver
7 about that exclusion that has been referenced in this
8 deposition on or before July 24th, 2016?

9 A. Well, the -- the day -- the day that I told you that
10 I saw her a good while after the accident, she came up
11 to the van and asked me who my insurance -- who was I
12 insured with, and I told her -- and I told her, I
13 said, "Well, they probably won't pay you nothing," I
14 said, "because I only have liability." That's all I
15 told her, and that was it.

16 Q. Do you have any reason to believe that -- that Gloria
17 Oliver knew that on July 24th, 2016?

18 A. I don't think she knew that on the 24th of -- the day
19 of the accident because she didn't ask anybody, and
20 she couldn't have asked me because I don't know her
21 like that.

22 Q. Do you think she -- do you think she has some sort or
23 responsibility to ask that question on July 24th,
24 2016?

25 A. I think she probably should have asked.

1 Q. She should have asked? She should have -- you think
2 she should have asked ---

3 A. Asked Richard. She couldn't have asked me anything
4 because I knew nothing about him giving her a ride.
5 I was at home.

6 Q. Would you ever get in somebody's vehicle -- would you
7 ever get in somebody's vehicle and ask them beforehand
8 if they had valid insurance on the vehicle?

9 A. I probably wouldn't.

10 Q. Probably wouldn't?

11 A. No.

12 Q. So, is there a reason why you think Ms. Oliver should
13 but you shouldn't?

14 A. No.

15 Q. Okay. Do you -- would you agree that on July 24th,
16 2016 that she was a guest in the vehicle that Mr.
17 Prothro was driving?

18 A. Yes.

19 Q. Okay. You just -- you just didn't know about it at
20 the time?

21 A. No, I didn't know about it.

22 Q. Okay. All right. And not for the first deposition,
23 okay, because you have an attorney; I don't want to
24 know what you talked to Mr. Crudup about, period.

25 Have you talked to anybody to prepare for the

1 deposition that we are taking right now?

2 A. No.

3 Q. Nobody has talked to you about it?

4 A. No.

5 Q. Okay. Nobody from Progressive has talked to you about
6 it?

7 A. No.

8 Q. And to be clear, you still have Progressive as your
9 insurance company; is that right?

10 A. Yes.

11 Q. Despite the fact that they have sued you?

12 A. Yes.

13 Q. Okay.

14 MR. McELVEEN: Nothing further.

15 MS. CAIELLO: I have just a few more
16 just very quickly and then we will be done.

17 MS. PROTHRO: Okay.

18 EXAMINATION BY MS. CAIELLO:

19 Q. We talked earlier about this same document,
20 Plaintiff's Exhibit One, the Named Driver Exclusion
21 Election Form, and we -- we read that second paragraph
22 right after your husband's name is listed. It said
23 that "There is no coverage for any claim arising from
24 an accident or loss involving a motorized vehicle
25 being operated by excluded person;" do you remember

1 that?

2 A. Yes.

3 Q. And you just testified that, when you saw Ms. Oliver
4 after the accident, you had told her that you don't
5 believe that Progressive would provide any coverage;
6 is that correct?

7 A. Yes, I remember telling her that.

8 Q. Okay. And you agree that the Named Driver Exclusion
9 Election Form in front of you as Plaintiff's Exhibit
10 One means that there is no coverage on the policy for
11 Richard Prothro?

12 A. Yes.

13 Q. Now, if you -- I believe Mr. McElveen had asked you if
14 you would ask anybody before getting in a car with
15 them if they have insurance on the car, and you said
16 "No"; is that right?

17 A. Right.

18 Q. Okay. Would you expect then, if the answer was no,
19 they didn't have insurance on the car but you didn't
20 know that, would you expect to get any insurance money
21 if you were involved in an accident in that car?

22 MR. McELVEEN: Object to the form.

23 Q. You can answer.

24 A. I don't know.

25 Q. So, if you had ridden in a car and didn't know that

1 someone was an excluded driver and had a form just
2 like this, if you had ridden in that car, would you
3 have expected to get any money from them?

4 MR. MCELVEEN: Object to the form.

5 A. If I had known it, I wouldn't expect to get any.

6 Q. You wouldn't expect it?

7 A. No.

8 Q. And just to clarify, you signed this Named Driver
9 Exclusion Form naming your husband on April 2nd, 2009;
10 is that correct?

11 A. Correct.

12 Q. And Leslie Todd at the Jim Robertson Agency had
13 explained to you what this form means; is that
14 correct?

15 A. Yes, she did.

16 Q. And since April 2nd, 2009, you have not ever elected
17 to put your husband on the policy; is that correct?

18 A. No.

19 Q. And the accident that we are here about today occurred
20 in July of 2016; is that correct?

21 A. Correct.

22 Q. That is after you had executed this document, signed
23 it; is that correct?

24 A. Okay.

25 MS. CAIELLO: No further questions.

1 Thank you.

2 MS. PROTHRO: Okay.

3 MR. McELVEEN: Thank you, ma'am.

4 MS. PROTHRO: All right. Thank you all.

5 (THERE BEING NO FURTHER QUESTIONS, THE DEPOSITION WAS
6 CONCLUDED AT 7:39 P.M.).

1 STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER) CERTIFICATE

I, Doris Tompkins Brown, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, certify that I did have Sharon Prothro appear before me commencing at 7:17 P.M. on December 2, 2019 at the offices of the Bryan Law Firm of SC, LLP, 17 East Calhoun Street, Sumter, South Carolina; that the witness was duly sworn and cautioned to tell the truth; that the foregoing pages constitute a true and accurate transcript of the testimony given at that time and place.

I hereby certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 4th of January, 2020.

Doris Tompkins Brown, CVR
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission expires: 4-02-2025

Policy number: 55178995-0

SHARON PROTHRO

Page 5 of 12

Named Driver Exclusion Election

You have named the following persons as excluded drivers under this policy:

RICHARD PROTHRO

Date of Birth: May 6, 1955

No coverage is provided for any claim arising from an accident or loss involving a motorized vehicle being operated by an excluded person. This includes any claim for damages made against any named insured, resident relative, or any other person or organization that is vicariously liable for an accident or loss arising out of the operation of a motorized vehicle by the excluded driver.

This form must be signed by the named insured.

I understand and agree that this Named Driver Exclusion election shall apply to this policy and any renewal, reinstatement, substitute, amended, altered, modified or replacement policy with this company or any affiliated company, unless a named insured revokes this election.

I declare that either the driver's license of the excluded persons named in this Named Driver Exclusion election has been turned into the Department of Motor Vehicles, or that an appropriate policy of liability insurance or other security as may be authorized by law has been properly executed in the name of the person to be excluded.

Signature of named insured

Date

X *Sharon J. Prothro*

4-2-09

Form 9330 SC (04/07)

Claim # 165237341



Continued

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
 COUNTY OF SUMTER) CIVIL ACTION NO.: 2019-CP-43-00105

Progressive Northern Insurance Company,)

Plaintiff,)

vs.)

Gloria Oliver, Richard Prothro and Sharon)
 Prothro,)

Defendants.)

Deposition of RICHARD PROTHRO, taken by Doris
 Tompkins Brown, Certified Verbatim Reporter and Notary
 Public in and for the State of South Carolina, commencing
 at 7:39 P.M. on December 2, 2019 at the offices of The
 Bryan Law Firm, LLP, 17 East Calhoun Street, Sumter, South
 Carolina.

APPEARANCES

ON BEHALF OF THE PLAINTIFF: Sarah E. Caiello
 Murphy and Grantland, P.A.
 Post Office Box 6648
 Columbia, South Carolina

ON BEHALF OF THE DEFENDANT:
 (Gloria Oliver) J. Thomas McElveen, III
 The Bryan Firm, LLP
 Post Office Box 2038
 Sumter, South Carolina

Doris Tompkins Brown

COPY

Certified Verbatim Reporter
 Post Office Box 853
 Sumter, South Carolina 29151
 (803) 499-2434

COPY



Also present but not

participating) :

Jeffrey M. Crudup

Clarkson Walsh & Coulter

Post Office Box 2219

Mount Pleasant, S.C.

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EXHIBIT INDEX

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(COURT REPORTER'S NOTE: --- INDICATES INTERRUPTION,
INCOMPLETE PHRASE, TRAILING OFF, INCOMPLETE SENTENCE)

**PROGRESSIVE NORTHERN INSURANCE COMPANY VS.
GLORIA OLIVER, RICHARD PROTHRO AND SHARON PROTHRO**

ELECTRONICALLY FILED - 2020 Sep 11 1:38 PM - SUMTER - COMMON PLEAS - CASE#2019CP4300105